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Constitution of 1879 as Amended

General Laws, Amendments to the Codes, Resolutions, and Constitutional Amendments passed by the California Legislature

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CHAPTER 725

An act to amend Section 466 of the Penal Code, relating to crimes.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 466 of the Penal Code is amended to read:

466. Every person having upon him or in his possession a picklock, crow, keybit, or other instrument or tool with intent feloniously to break or enter into any building, railroad car, aircraft, or vessel, trailer coach, or vehicle as defined in the Vehicle Code, or who shall knowingly make or alter, or shall attempt to make or alter, any key or other instrument above named so that the same will fit or open the lock of a building, railroad car, aircraft, or vessel, trailer coach, or vehicle as defined in the Vehicle Code, without being requested so to do by some person having the right to open the same, or who shall make, alter, or repair any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of a misdemeanor.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 726

An act to amend Section 5604 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) Each community mental health service shall have an advisory board of 17 members appointed by the governing body

except that such boards in counties with a population of less than 100,000 may have a minimum of 11 members. One member of the advisory board shall be the chairman of the local governing body. Not less than 51 percent of the members of the advisory board shall be persons representative of the public interest in mental health; provided, however, that not less than one-half of the members representing the public interest shall be persons or the parents, spouse, or adult children of persons, who have received mental health services. The advisory board shall contain two physicians, one of whom shall specialize in psychiatry, and the remaining members shall be selected from among the following disciplines: psychology, social work, nursing, education, marriage and family counseling, psychiatric technology, criminal justice, hospital or community mental health facility administration, and fiscal management. For members not representing the public interest, the governing body shall appoint persons representing different disciplines. The governing body may designate a person of its choice who does not qualify as a professional member under this section to serve instead of the chairman as a member of the advisory board.

(b) The term of each member of the board shall be for three years; provided, however, that of the members first appointed to a board with 17 members, six shall be appointed for one year, six for a term of two years, and five for a term of three years. For members appointed to boards of less than 17 members, the governing body shall equitably stagger the appointments so that approximately one-third of the appointments shall be for one year, one-third for two years, and one-third for three years. For the members first appointed as a result of the amendment to this section by the 1975–76 Regular Session of the Legislature, one-third shall be for a term of one year, one-third for a term of two years, and one-third for a term of three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified the person for appointment on the board, the membership on the board shall terminate and there shall be a vacancy on the board.

(c) If two local agencies jointly establish a community health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for such community mental health service shall consist of an additional two members, one of whom shall be the chairman of the second governing body or a person who does not qualify as a professional member under this section designated by the second governing body and the second of whom shall be an additional person or a parent, spouse, or adult child of a person who has received mental health services.

(d) No member of the advisory board or his or her spouse shall be

a full-time or part-time county employee of the county mental health service, an employee of the State Department of Health, an employee of the Department of Benefit Payments, or an employee of a Short-Doyle contract facility.

(e) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Health, the Department of Benefit Payments, or on the staff of a Short-Doyle contract facility.

CHAPTER 727

An act to add Sections 41766.5, 41767.5, 84732.5, and 84733.5 to the Education Code, relating to school and community college districts.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 41766.5 is added to the Education Code, to read:

41766.5. A request made pursuant to Section 41766 shall be in effect from year to year until revoked by the governing board.

SEC. 2. Section 41767.5 is added to the Education Code, to read:

41767.5. A request made pursuant to Section 41767 shall be in effect from year to year until revoked by the governing board.

The governing board shall notify the Superintendent of Public Instruction when the redevelopment project is terminated, or when the redevelopment project changes in such a way as to substantially affect the tax revenue it contributes to the district.

SEC. 3. Section 84732.5 is added to the Education Code, to read:

84732.5. A request made pursuant to Section 84732 shall be in effect from year to year until revoked by the governing board.

SEC. 4. Section 84733.5 is added to the Education Code, to read:

84733.5. A request made pursuant to Section 84733 shall be in effect from year to year until revoked by the governing board.

The governing board shall notify the Chancellor of the California Community Colleges when the redevelopment project is terminated, or when the redevelopment project changes in such a way as to substantially affect the tax revenue it contributes to the district.

CHAPTER 728

An act to amend Section 30700.5 of the Water Code, relating to Pleasant Valley County Water District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 30700.5 of the Water Code is amended to read:

30700.5. Notwithstanding Section 30021 or any other provision of the law, in the Pleasant Valley County Water District every owner of land within the district, but no others, may vote at the election for directors or otherwise. Such owners need not be residents of the district in order to qualify as voters. Each voter shall be entitled to cast one vote for each one hundred dollars ($100) of assessed valuation of land, exclusive of improvements, minerals, and mineral rights therein, to which he had title. The last equalized county assessment roll is conclusive evidence of ownership and of the value of the real property so owned. Upon request by the county clerk, the county assessor shall provide within 45 days a certified list of every owner of real property within the district and the assessed value of the land, exclusive of improvements, minerals, and mineral rights therein, owned by the voter in the district. Where the land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land shall designate in writing which one of the owners shall be deemed the owner of such land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of such corporation or estate. As used in this section, legal representative means an official of a corporation owning real property or a guardian, executor, or administrator of the estate of the holder of title to real property who:

(a) Is appointed under the laws of the state.

(b) Is entitled to possession of the estate in real property.

(c) Is authorized by the appointing court to exercise the particular right, privilege or immunity which he seeks to exercise. Before a legal representative votes at a district election he shall present to the precinct board a certified copy of his authority which shall be kept and filed with the returns of the election.

Every voter, or his legal representative, may vote at any district election either in person or by a person duly appointed as his proxy, but shall be entitled to cast only one vote. The appointment of a proxy shall be as provided in Section 35005.

The provisions of this section shall apply only to a county water district heretofore formed in Pleasant Valley, Ventura County. These

special provisions are necessary for reasons similar to those expressed in Section 30205.

SEC. 2. There are no state-mandated local costs within the meaning of 2231 of the Revenue and Taxation Code imposed on local governmental entities by this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Severe drought conditions are being experienced in the Pleasant Valley County Water District. The district has made an application to the United States Bureau of Reclamation for a loan under the Small Reclamation Projects Act to engage in a project for more efficient management and conservation of ground water within the district. An election approving the contract with the United States is necessary and is planned to be held during the early part of 1977. Section 30700.5 of the Water Code, prior to the enactment of Chapter 1273 of the Statutes of 1976, required that only landowners could vote in an election held within the Pleasant Valley County Water District. Chapter 1273 of the Statutes of 1976 clarified the identification of voters, but still may be subject to a constitutional challenge under the decisions of Salyer Land Co. v. Tulare Lake Basin Water Storage District (410 U.S. 719) and Schindler v. Palo Verde Irrigation District (1 Cal. App. 3d 831) as not weighting the voting as required in landowner voting districts.

In order to hold an immediate election for the purpose of approving a project to conserve the limited ground water supplies within the district, it is necessary that this act take effect immediately.

CHAPTER 729

An act to add Section 20009.7 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 20009.7 is added to the Government Code, to read:

20009.7. "Public agency" also includes a public or private nonprofit corporation which operates an independent living center providing services to severely handicapped people and established pursuant to federal P.L. 93-112, which receives the approval of the board, and which provides three of the following services:

(a) Assisting severely handicapped people to obtain personal

attendants who provide in-home supportive services.

(b) Locating and distributing information about housing in the community usable by severely handicapped people.

(c) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(d) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.

(e) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.

"Public agency" for purposes of this part shall constitute only the employees of the independent living center.

Notwithstanding any other provisions of this part, such public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

CHAPTER 730

An act to amend Sections 66901, 66904, 67000, and 67002 of the Education Code, and to amend Section 11126 of the Government Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 66901 of the Education Code is amended to read:

66901. There is hereby created the California Postsecondary Education Commission, which shall be advisory to the Governor, the Legislature, other appropriate governmental officials, and institutions of postsecondary education. The commission shall be composed of the following members:

(1) Two representatives of the Regents of the University of California designated by the regents, two representatives of the Trustees of the California State University and Colleges designated by the trustees, and two representatives of the Board of Governors of the California Community Colleges designated by the board. Representatives of the regents, the trustees, and the board of governors shall be chosen from among the appointed members of their respective boards, but in no instance shall an ex officio member of a governing board serve on the commission.

(2) Two representatives of the independent California colleges and universities which are accredited by a national or regional association which is recognized by the United States Office of Education. These members shall be appointed by the Governor from a list or lists submitted by an association or associations of such institutions.

(3) The chairmen of the California Advisory Council on Vocational Education and Technical Training and the Council for Private Postsecondary Educational Institutions or their designees from among the other members of their respective councils.

(4) The President of the State Board of Education or his designee from among the other members of the board.

(5) Twelve representatives of the general public appointed as follows: four by the Governor, four by the Senate Rules Committee, and four by the Speaker of the Assembly. It is the intent of the Legislature that the commission be broadly and equitably representative of the general public in the appointment of its public members and that the appointing authorities, therefore, shall confer to assure that their combined appointments include adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the state.

No person who is regularly employed in any administrative, faculty, or professional position by any institution of public or private postsecondary education shall be appointed to the commission.

The commission members designated in subdivisions (1), (3), and (4) shall serve at the pleasure of their respective appointing authorities. The member designated in subdivision (2) shall serve a three-year term. The members designated in subdivision (5) shall each serve a six-year term. When vacancies occur prior to expiration of terms, the respective appointing authority may appoint a member for the remainder of the term.

Any person appointed pursuant to this section may be reappointed to serve additional terms.

No person appointed pursuant to this section shall, with respect to any matter before the commission, vote for or on behalf of, or in any way exercise the vote of, any other member of the commission.

The commission shall meet as often as it deems necessary to carry out its duties and responsibilities.

Any member of the commission who in any calendar year misses more than one-third of the meetings of the full commission forfeits his office, thereby creating a vacancy.

The commission shall select a chairman from among the members representing the general public. The chairman shall hold office for a term of one year and may be selected to successive terms.

There is established an advisory committee to the commission and the director, consisting of the chief executive officers of each of the public segments, or their designees, the Superintendent of Public Instruction or his designee, and an executive officer from each of the groups of institutions designated in subdivisions (2) and (3) of

Section 66901 to be designated by the respective commission representative or representatives from such groups. Commission meeting agenda items and associated documents shall be provided to the committee in a timely manner for its consideration and comments.

The commission may appoint such subcommittees or advisory committees as it deems necessary to advise it on matters of educational policy. Such advisory committees may consist of commission members or nonmembers or both, including students, faculty members, segmental representatives, governmental representatives, and representatives of the public.

The commission shall appoint and may remove a director in the manner hereinafter specified. He shall appoint persons to such staff positions as the commission may authorize.

The commission shall prescribe rules for the transaction of its own affairs, subject, however, to the following requirement and limitations: (1) The votes of all representatives shall be recorded, (2) effective action shall require the affirmative vote of a majority of all the duly appointed members of the commission, not including vacant commission seats, and (3) the affirmative votes of two-thirds of all the duly appointed members of the commission, not including vacant commission seats, shall be necessary to the appointment of the director.

SEC. 2. Section 66904 of the Education Code is amended to read:

66904. It is the intent of the Legislature that sites for new institutions or branches of the University of California and the California State University and Colleges, and such classes of off-campus centers as the commission shall determine, shall not be authorized or acquired unless recommended by the commission.

It is further the intent of the Legislature that California community colleges shall not receive state funds for acquisition of sites or construction of new institutions, branches, or off-campus centers unless recommended by the commission. Acquisition or construction of non-state-funded community college institutions, branches, off-campus centers, and proposals for such acquisition or construction shall be reported to and may be reviewed and commented upon by the commission.

It is further the intent of the Legislature that existing or new institutions of public education, other than those described in subdivisions (2) and (3) of Section 66010 shall not be authorized to offer instruction beyond the 14th grade level.

All proposals for new postsecondary educational programs shall be forwarded to the commission for review together with such supporting materials and documents as the commission may specify. The commission shall review such proposals within a reasonable length of time, which time shall not exceed 60 days following submission of the program and the specified materials and documents. For the purposes of this section, "new postsecondary educational programs" means all proposals for new schools or

colleges, all series of courses arranged in a scope or sequence leading to (1) a graduate or undergraduate degree, or (2) a certificate of a type defined by the commission, which have not appeared in a segment's or district's academic plan within the previous two years, and all proposals for new research institutes or centers which have not appeared in a segment's or district's academic plan within the previous two years.

It is further the intent of the Legislature that the advice of the commission be utilized in reaching decisions on requests for funding new and continuing graduate and professional programs, enrollment levels, and capital outlay for existing and new campuses, colleges, and off-campus centers.

SEC. 3. Section 67000 of the Education Code is amended to read:

67000. The people of the State of California accept the provisions of and each of the funds provided by Title 1 and Title X of the Education Amendments of 1972 (Public Law 92-318), the Education Amendments of 1976 (Public Law 94-482), and subsequent enactments amendatory or supplementary thereto.

SEC. 4. Section 67002 of the Education Code is amended to read:

67002. The California Postsecondary Education Commission is designated as the state educational agency to carry out the purposes and provisions of the Education Amendments of 1972 (Public Law 92-318), the Education Amendments of 1976 (Public Law 94-482), and subsequent enactments amendatory or supplementary thereto, as follows:

(a) The commission is designated as the state commission required to be established pursuant to Section 1202 of Title X of the Higher Education Act of 1965 (Public Law 89-329) as amended by the Education Amendments of 1972 (Public Law 92-318);

(b) The commission is designated as the state administrative agency required to be established pursuant to Section 1055 of Title X of the Higher Education Act of 1965 (Public Law 89-329) as amended by the Education Amendments of 1972 (Public Law 92-318), unless such designation is determined by the federal government to be in conflict with federal law or regulations;

(c) The commission is designated as the state administrative agency required to be established pursuant to Section 105 of Title 1, Section 122 of Title III, Section 603 of Title VI and Section 704 of Title VII of the Higher Education Act of 1965 (Public Law 89-329) as amended by the Education Amendments of 1972 (Public Law 92-318). The California Postsecondary Education Commission is hereby vested with authority to prepare and submit to the United States Commissioner of Education any state plan required by said act of Congress, to prepare and submit amendments to such state plans, and to administer such state plans or amendments thereto, in accordance with said act of Congress and any rules and regulations adopted thereunder. Any such state plan or amendment thereto prepared by the California Postsecondary Education Commission shall be subject to the approval of the Department of Finance to the

extent required by Section 13326 of the Government Code. The California Postsecondary Education Commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof in the administration of the act of Congress and the rules and regulations adopted thereunder.

SEC. 5. Section 11126 of the Government Code is amended to read:

11126. Nothing contained in this article shall be construed to prevent a state agency from holding executive sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. As a condition to holding an executive session on the complaints or charges to consider disciplinary action or to consider dismissal such employee shall be given written notice of his right to have a public hearing rather than an executive session, which notice shall be delivered to him personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at such executive session shall be null and void. The state agency also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the state agency. Following the public hearing or executive session the agency may deliberate on the decision to be reached in an executive session.

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

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

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

Nothing in this article shall be construed to prevent any state agency from holding an executive session to consider matters affecting the national security.

Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional

institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state agency from holding an executive session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

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

Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding an executive session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

Nothing in this article shall be construed to prevent the Trustees of the California State Colleges from holding executive sessions dealing with site selection for such state colleges.

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

Nothing in this article shall be construed to prevent the Franchise Tax Board from holding executive sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law.

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

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

Nothing in this article shall be construed to prevent the Board of Administration of the Public Employees' Retirement System from holding executive sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the Teachers' Retirement Board of the State Teachers' Retirement System from holding executive sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the governing body of a public agency, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by such governing body, from holding executive sessions with its representatives at any time in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits.

Notwithstanding any other provision of law, any meeting of the

Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding executive sessions to deliberate on the institution of proceedings, disciplinary actions against regulated utilities, or litigation.

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

In order to permit the California Postsecondary Education Commission to operate under the new rules provided herein for as much of the 1977–78 fiscal year as possible, and to facilitate and expedite the search to fill the anticipated vacancy in the office of the director, it is essential that this act take effect immediately.

CHAPTER 731

An act to amend Section 9250 of, and to add Sections 5350.6 and 11704.6 to, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977

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

SECTION 1. Section 5350.6 is added to the Vehicle Code, to read:

5350.6. (a) For the purposes of registration of mobilehomes pursuant to this article, "mobilehome" shall include, as a single unit with one registration, two or more units that are manufactured or fabricated for later assembly as a single unit which are actually sold to be assembled into a single unit.

(b) Subdivision (a) shall apply to mobilehomes upon application for original registration of, or an original certificate of ownership to, or transfer of ownership of, a mobilehome.

SEC. 2. Section 9250 of the Vehicle Code is amended to read:

9250. (a) A registration fee of eleven dollars ($11) shall be paid to the department for the registration of every vehicle of a type subject to registration, except as are expressly exempted under this code from the payment of registration fees.

The registration fee imposed by this section shall apply to all vehicles described in Section 5004, whether or not special identification plates are issued to such vehicle.

(b) Mobilehomes registered under the provisions of Section

5350.6 shall be subject to the fee provided in subdivision (a) for each unit of the mobilehome.

SEC. 3. Section 11704.6 is added to the Vehicle Code, to read:

11704.6. Every person who applies to the department to take the examination required under Section 11704.5 for applicants for a mobilehome dealer's or salesperson's license shall pay to the department a fee equal to the actual cost to the department for preparing and administering the examination, or fifty dollars ($50), whichever is less.

SEC. 4. Sections 1 and 2 of this act shall become operative on July 1, 1978.

CHAPTER 732

An act to add Section 1374.7 to the Health and Safety Code, and to add Sections 10123.3, 10143, and 11512.9 to the Insurance Code, relating to health.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 1374.7 is added to the Health and Safety Code, to read:

1374.7. (a) No plan shall refuse to enroll any person or accept any person as a subscriber after appropriate application solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A. No plan shall require a higher rate or charge by reason of the fact that the person carries such traits than is at that time required of any other individual in an otherwise identical classification, nor shall any plan make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered under the plan because the person carries such traits.

(b) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment or subscription of any person solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A.

SEC. 2. Section 10123.3 is added to the Insurance Code, to read:

10123.3. (a) No self-insured employee welfare benefit plan shall

refuse to enroll any person or accept any person as a subscriber after appropriate application solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but not be limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A. No plan shall require a higher rate or charge by reason of the fact that the person carries such traits than is at the time required of any other individual in an otherwise identical classification, nor shall any plan make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered under the plan because the person carries such traits.

(b) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment or subscription of any person solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but not be limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A.

SEC. 3. Section 10143 is added to the Insurance Code, to read:

10143. (a) No insurance company licensed in this state shall refuse to issue or sell or renew any policy of life or disability insurance after appropriate application solely by reason of the fact that the person to be insured carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but not be limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A. No such policy issued and delivered in this state to any association, corporation, firm, fund, individual, group, order, organization, society, or trust subject to the supervision of the commissioner shall demand or require a higher premium rate or charge by reason of the fact that the person to be insured carries such traits than is at that time required of any other association, corporation, firm, fund, individual, group, order, organization, society, or trust in an otherwise identical classification, nor shall any association, corporation, firm, fund, group, individual, order, organization, society, or trust make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered on such policy because the person to be insured carries such traits.

(b) No insurance company licensed in this state shall insert in a policy of life or disability insurance any condition, nor make any stipulation, whereby the person insured who carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier, including, but not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A, shall bind himself, his heirs, executors, administrators, or assignees to accept any sum or

service less than the full value or amount of the policy in case of a claim accruing thereon other than such as are imposed upon other persons in similar cases and any such stipulation or condition so made or inserted shall be void.

(c) No insurance company licensed in this state shall fix any lower rate in the fees or commissions of agents or brokers for writing or renewing a policy of life or disability insurance solely because the applicant carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, or X-linked hemophilia A.

SEC. 4. Section 11512.9 is added to the Insurance Code, to read:

11512.9. (a) No nonprofit hospital service plan shall refuse to enroll any person or accept any person as a subscriber after appropriate application solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A. No plan shall require a higher rate or charge by reason of the fact that the person carries such traits than is at that time required of any other individual in an otherwise identical classification, nor shall any plan make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered under the plan because the person carries such traits.

(b) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment of subscription of any person solely by reason of the fact that the person carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A.

CHAPTER 733

An act to amend Section 27465 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

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

SECTION 1. Section 27465 of the Vehicle Code, as amended by Section 1 of Chapter 77 of the Statutes of 1977, is amended to read:

27465. (a) No dealer or person holding a retail seller's permit shall sell, offer for sale, expose for sale, or install on a vehicle axle for use on a highway, a pneumatic tire when the tire is so worn that less than one thirty-second (1/32) of an inch tread depth remains in any two adjacent grooves at any location on the tire. This subdivision shall not apply to any person who installs on a vehicle, as part of an emergency service rendered to a disabled vehicle upon a highway, a spare tire with which such disabled vehicle was equipped.

(b) No person shall use on a highway a pneumatic tire on a vehicle axle when the tire is so worn that less than one thirty-second (1/32) of an inch tread depth remains in any two adjacent grooves at any location on the tire, except when temporarily installed on a disabled vehicle as specified in subdivision (a).

(c) The measurement of tread depth shall not be made where tie bars, humps, or fillets are located.

(d) The requirements of this section shall not apply to implements of husbandry.

(e) The department, if it determines that such action is appropriate and in keeping with reasonable safety requirements, may adopt regulations establishing more stringent tread depth requirements than those specified in this section for those vehicles defined in Sections 322, 323, and 545, and may adopt regulations establishing tread depth requirements different from those specified in this section for those vehicles listed in Section 34500.

CHAPTER 734

An act to amend Section 11158 of the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor September 12, 1977 Filed with Secretary of State September 12, 1977]

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

SECTION 1. Section 11158 of the Welfare and Institutions Code is amended to read:

11158. The Legislature recognizes that certain property and rights owned by a recipient, including a recipient of aid to families with dependent children, are of negligible value in enabling the recipient to meet his present needs, and cannot be classified as available resources of the recipient. It is the purpose of this section to designate such property and rights.

For the purposes of evaluating the personal property of a recipient, the value of the following items, in the aggregate, shall be whatever amount paid exceeds one thousand dollars ($1,000):

(a) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code.

(b) Life or burial insurance purchased specifically for funeral, cremation, or interment expense, which is placed in an irrevocable trust or which has no loan or surrender value available to the recipient.

(c) Securities issued by a licensed cemetery authority which by their terms are convertible into payment for funeral, cremation, or interment expenses.

For the purposes of evaluating the personal property of a recipient, interment plots as defined in Section 7022 of the Health and Safety Code shall be deemed to have no value.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

CHAPTER 735

An act to amend and renumber Section 1203.11 of the Penal Code, relating to crimes.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 1203.11 of the Penal Code is amended and renumbered to read:

1203.08. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any adult person convicted of a designated felony who has been previously convicted as an adult under charges separately brought and tried two or more times of any designated felony or in any other place of a public offense which, if committed in this state, would have been punishable as a designated felony, if all the convictions occurred within a 10-year period. Such 10-year period shall be calculated exclusive of any period of time during which the person has been confined in a state or federal prison.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(2) Except where the existence of such fact was not admitted or found to be true pursuant to paragraph (1), or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

(3) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(c) As used in this section, "designated felony" means any felony specified in Section 187, 192, 207, 209, 211, 217, 245, 288, or subdivision (2), (3), or (4) of Section 261, subdivision 1 of Section 460, or when great bodily injury occurs in perpetration of an assault to commit robbery, mayhem, or rape, as defined in Section 220.

CHAPTER 736

An act to amend Section 789.9 of the Civil Code, relating to mobilehome parks.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 789.9 of the Civil Code is amended to read:

789.9. (a) The ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes shall give 60 days' written notice of any rent increase to any tenant of such park, subdivision, cooperative, or condominium.

(b) A tenant of a park, subdivision, cooperative, or condominium for mobilehomes shall give 60 days' written notice before vacating the tenancy to the ownership or management of such park, subdivision, cooperative, or condominium.

(c) The management of a mobilehome park shall provide the tenants with the park rules and regulations and the language of Sections 789.4 to 789.14, inclusive, in written form either included within the rules and regulations of the park or in the rental agreement.

CHAPTER 737

An act to add Section 25263 to the Government Code, relating to counties.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

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

SECTION 1. Section 25263 is added to the Government Code, to read:

25263. Notwithstanding any other law to the contrary, the board of supervisors of a county may, by resolution, establish and maintain a reserve account to insure against its liability or the liability of its employees for injuries, for liability under the workers' compensation laws, for casualty losses incurred by the county, and for providing health and welfare benefits for its employees. In such event, a county may elect to be wholly or partially self-insured, and if such reserves are established, the board of supervisors shall prescribe procedures whereby the reserves may be used to pay for settlement of claims; payment of property losses; payment of attorney and investigator fees; and payment of insurance and broker fees if the county elects to be partially insured. If such reserves are established, appropriations shall be made to such reserves, and payments may be made from such reserves for the above purposes without specific appropriation. All interest earned by the reserve shall be credited to the reserve.

The board of supervisors may authorize any district for which the board is the governing body to establish and maintain the reserves authorized by this section.

CHAPTER 738

An act relating to disposition of property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1977 Filed with Secretary of State September 12, 1977]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 0.17 of an acre of land, being the Valley Springs Forest Fire Station, located on Sequoia Avenue in the Townsite of Valley Springs, in Calaveras County.

Parcel 2. Approximately 4.0 acres of land, being the Los Banos Forest Fire Station, located on State Highway Route 152, approximately three miles west of the City of Los Banos, in Merced County.

Parcel 3. Approximately 0.53 of an acre of land, being the Yucaipa

Forest Fire Station, located on "A" Street in the City of Yucaipa, in San Bernardino County.

Parcel 4. Approximately 0.82 of an acre of land, being the former Hope Street Armory, located at 3440 South Hope Street in the City of Los Angeles.

Parcel 5. Approximately 2.85 acres of land, being a portion of the San Diego Armory, located on Mesa College Drive in the City of San Diego.

Parcel 6. Approximately 250 acres of land being a portion of Preston School of Industry, located along the easterly boundaries of the City of Ione, in Amador County.

Parcel 7. Approximately 5.88 acres of land, being the former San Jose Office Building Site, located on Hedding Street in San Jose, provided that said property shall not be sold or exchanged until either an alternate site has been acquired or the parcel is exchanged in connection with the acquisition of the alternate site. The alternate site acquired by the State of California would be used for a general purpose state office building within San Jose.

Parcel 8. Approximately 300 acres of land being a portion of Pine Hill Lookout, located approximately five miles northwest of the community of Shingle Springs, in El Dorado County.

Parcel 9. Approximately 0.96 acre of land, being the former Carpinteria Agriculture Inspection Station, located on Carpinteria Avenue, Carpinteria, in Santa Barbara County.

Parcel 10. Approximately 0.50 acre of land, located at the end of Surfview Drive at the northwest boundary of the City of Los Angeles, being a portion of Topanga State Park in Los Angeles County.

SEC. 2. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels in this act shall be exempt from the provisions of Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 3. Any cost or expense incurred in the disposition of any parcel may be reimbursed from the proceeds of such disposition.

SEC. 4. Subject to Section 3 of this act, any monies received from the disposition of any parcel shall be paid into the General Fund.

SEC. 5. As to any property sold or exchanged pursuant to this act containing 10 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any such property sold or exchanged containing more than 10 acres, the Director of General Services shall except and reserve in the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine and remove such deposits. Such rights to prospect for, mine and remove shall be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of such resources and deposits.

SEC. 6. Pursuant to Chapter 1377 of the Statutes of 1971, the state has conveyed 3.1 acres of land, located at the former Los Guilucos School, to the City of Santa Rosa for use as a fire and police station. The City of Santa Rosa is herewith authorized to use this 3.1 acres of land for any public purpose, provided that in the event the property ceases to be used for a public purpose, it shall revert to the state.

SEC. 7. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange approximately 5 acres of land at Hendy Woods State Park, in Mendocino County, for adjoining lands upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state.

SEC. 8. The Director of General Services, with the approval of the State Public Works Board, is authorized to sell or exchange, for current market value, to the City of San Francisco, approximately 0.11 acre of land located in the block bounded by Gough, Grove, Franklin, and Fulton Streets in San Francisco, upon such conditions and with such reservations and exceptions as in his opinion may be in the best interest of the state.

SEC. 9. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

There exists an extreme shortage of physical facilities for agencies of the state government, the present facilities being entirely inadequate due to great increases in population and added governmental responsibilities. The provisions for sale or exchange of real property in this bill are in continuation of an exisiting program to remedy the aforesaid shortage of facilities and to promote and sustain the economy of the state. If a new site in San Jose is not available on August 1, 1977, existing programs will be delayed. It is therefore necessary that this act go into immediate effect.

CHAPTER 739

An act to add Sections 18050.1 and 18100.1 to the Government Code, relating to state civil service.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 18050.1 is added to the Government Code, to read:

18050.1. The State Personnel Board may provide by rule for the regulation and accumulation of vacation credits on an hourly basis to conform to the frequency of the pay period for all or certain designated employees. For those employees whose vacation credits are accrued on an hourly basis pursuant to this section, the rate of accrual shall be in substantial proportion to the schedule provided in Section 18050.

SEC. 2. Section 18100.1 is added to the Government Code, to read:

18100.1. The State Personnel Board may provide by rule for the regulation and accumulation of sick leave credits on an hourly basis for all or certain designated employees. The rate of accrual shall be substantially proportionate to eight hours per month, with amounts earned credited at the end of each pay period.

CHAPTER 740

An act to add Section 44944.1 to the Education Code, relating to public schools.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

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

SECTION 1. Section 44944.1 is added to the Education Code, to read:

44944.1. At a hearing conducted pursuant to Section 44944, the hearing officer, before admitting any testimony or evidence concerning an individual pupil, shall determine whether the introduction of such testimony or evidence at an open hearing would violate any of the provisions of Article 5 (commencing with Section 49073) of Chapter 6.5 of Part 27 of Division 4 of this code, relating to privacy of pupil records. If the hearing officer, in his discretion, determines that any of such provisions would be violated, he shall order that the hearing, or any portion thereof at which such testimony or evidence would be produced, be conducted in executive session.

CHAPTER 741

An act to amend Sections 45274 and 88093 of the Education Code, relating to merit system school districts and community college districts.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 45274 of the Education Code is amended to read:

45274. Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate, shall be retained by the body authorized to administer examinations for a period of not less than 90 days after promulgation of an eligibility list. The commission shall prescribe procedures whereby candidates may review and protest any part of an examination. In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the eligibility list. Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his representative.

SEC. 2. Section 88093 of the Education Code is amended to read:

88093. Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate, shall be retained by the body authorized to administer examinations for a period of not less than 90 days after promulgation of an eligibility list. The commission shall prescribe procedures whereby candidates may review and protest any part of an examination. In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the eligibility list. Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his representative.

CHAPTER 742

An act to amend Section 23102.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 23102.3 of the Vehicle Code is amended to read:

23102.3 (a) For any conviction of driving a motor vehicle upon a highway while under the influence of intoxicating liquor, any judge of a court may order a presentence investigation to determine whether a person convicted of such offense would benefit from treatment for persons who are habitual users of alcohol, and the court may order suitable treatment for the person, in addition to imposing any penalties required by this code.

CHAPTER 743

An act to amend Section 1 of Chapter 1019 of the Statutes of 1975, relating to travel facilities, and making an appropriation therefor.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

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

SECTION 1. The Department of Transportation may construct a commuter bikeway on the west bank of the Los Angeles River in the County of Los Angeles between the Imperial Highway and Slauson Avenue if (a) sufficient funds are available from the funds appropriated for commuter bikeways by Section 11 of Chapter 1130 of the Statutes of 1975, and (b) the project meets the specified criteria developed and used by the department for commuter bikeway project evaluation.

SEC. 2. Section 1 of Chapter 1019 of the Statutes of 1975 is amended to read:

Section 1. The Department of Parks and Recreation may acquire rights-of-way for, and develop, riding, hiking, and bicycle trails in Santa Barbara and Ventura Counties between the following:

(a) From the United States Forest Service trail system near San Antonio Creek and State Highway Route 154 to El Capitan State Beach.

(b) From El Capitan State Beach to Refugio State Beach.

(c) From Refugio State Beach to Gaviota State Park.

(d) From Mussel Shoals to Emma Wood State Beach.

(e) From Emma Wood State Beach to San Buenaventura State Beach.

(f) From San Buenaventura State Beach to McGrath State Beach.

Such acquisitions shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), except that such acquisitions shall be subject to the restrictions on the exercise of eminent domain specified in Section 5074.3 of the Public Resources Code.

CHAPTER 744

An act to amend Section 27230 of the Elections Code, relating to elections.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 27230 of the Elections Code is amended to read:

27230. Within 14 days of receiving the certificate of sufficiency, the governing body, or in the case of a special district the county clerk of the most populous county in which the district is situated, shall issue an order stating that an election shall be held pursuant to this article to determine whether or not the officer named in the petition shall be recalled.

SEC. 2. This act shall not become operative if Assembly Bill No. 1278 of the 1977–78 Regular Session of the Legislature is also chaptered and becomes operative on or before January 1, 1978.

CHAPTER 745

An act to amend Section 810.2 of, and to add Section 27648 to, the Government Code, relating to judicial officers.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 810.2 of the Government Code is amended to read:

810.2. "Employee" includes an officer, judicial officer as defined in Section 28 of the Elections Code, employee, or servant, whether or not compensated, but does not include an independent contractor.

SEC. 2. Section 27648 is added to the Government Code, to read:

27648. If, because of a declared conflict of interest, any judge, who is otherwise entitled to representation pursuant to Section 825, 995, or 27647, is required to retain his own counsel, such judge is entitled to recover from the appropriate public entity such reasonable attorney's fees, costs, and expenses as were necessarily incurred thereby.

CHAPTER 746

An act to add Article 11 (commencing with Section 45420) to Chapter 5 of Part 25 of, and Article 9 (commencing with Section 88260) to Chapter 4 of Part 51, of the Education Code, relating to public school and community college employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

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

SECTION 1. Article 11 (commencing with Section 45420) is added to Chapter 5 of Part 25 of the Education Code, to read:

Article 11. Assumption by County Superintendent of Schools of the Operation of a School District's Data Processing Center

45420. The provisions of this article shall become applicable upon the execution of an agreement between a county superintendent of schools and a school district governing board providing for the assumption by the county superintendent of schools of a data processing center operated by the school district.

45421. A school district employee in a position not requiring certification qualifications assigned to a data processing center which is transferred to a county superintendent of schools shall, upon the election of the employee to do so, cease to be an employee of the school district upon the effective date of the agreement transferring the data processing center to the county superintendent of schools and shall thereafter be an employee of the county superintendent of schools and be paid from the county school service fund.

45422. District employees whose status is changed pursuant to this article shall retain all accumulated and unused sick leave, vacation, seniority rights and other rights and benefits which can reasonably be construed to have been an earned right at the time of transfer to the county school service fund.

45423. No employee transferred from school district service pursuant to this article to a position, the salary of which is paid from the county school service fund, shall suffer any loss of salary at the

time of transfer, or as to the future as it relates to his status on the salary scale of the county superintendent of schools in effect at that time.

SEC. 2. Article 9 (commencing with Section 88260) is added to Chapter 4 of Part 51 of the Education Code, to read:

Article 9. Assumption by County Superintendent of Schools of the Operation of a Community College District's Data Processing Center

88260. The provisions of this article shall become applicable upon the execution of an agreement between a county superintendent of schools and a community college district governing board providing for the assumption by the county superintendent of schools of a data processing center operated by the community college district.

88261. A community college district employee in a position not requiring certification qualifications assigned to a data processing center which is transferred to a county superintendent of schools shall, upon the election of the employee to do so, cease to be an employee of the community college district upon the effective date of the agreement transferring the data processing center to the county superintendent of schools and shall thereafter be an employee of the county superintendent of schools and be paid from the county school service fund.

88262. District employees whose status is changed pursuant to this article shall retain all accumulated and unused sick leave, vacation, seniority rights and other rights and benefits which can reasonably be construed to have been an earned right at the time of transfer to the county school service fund.

88263. No employee transferred from community college district service pursuant to this article to a position, the salary of which is paid from the county school service fund, shall suffer any loss of salary at the time of transfer, or as to the future as it relates to his status on the salary scale of the county superintendent of schools in effect at that time.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to permit the orderly transfer of responsibilities for data processed prepared payrolls of school district employees and community college district employees on and after July 1, 1977, and to protect the acquired employment rights of employees assigned to district data processing centers being transferred to a county superintendent of schools, it is necessary that this act take effect immediately.

CHAPTER 747

An act to amend Sections 1008, 5006, 5007, 5010, 5091, 5093, 5302, 5322, 5323, 5324, 5325, 5340, and 5342 of the Education Code, relating to school and community college district elections.

[Approved by Governor September 12, 1977 Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 1008 of the Education Code is amended to read:

1008. When any vacancy exists on the county board of education of any county and the term in which the vacancy occurs has 12 months or less remaining until its completion, the vacancy shall be filled by the majority of the remaining members of the board for the duration of the unexpired term. In all other cases, the county superintendent of schools having jurisdiction shall call a special election within the county at which election the vacancy shall be filled.

The special election shall be consolidated with the next countywide election, or the next municipal election if the vacancy to be filled is that of a member representing such municipality, if (a) the vacancy occurs within six months of the next regularly scheduled countywide election or municipal election, as the case may be, (b) a quorum of the board still exists, and (c) the board requests the officer conducting the election to consolidate the special election with the next regularly scheduled countywide election or municipal election, as the case may be.

Any person elected shall fill out the unexpired term to which he was elected.

A special election shall be held and conducted in as nearly the same manner as is practicable as are elections of members of the county board of education.

If a request is made for a consolidation of the special election with the next regularly scheduled countywide election or municipal election and a vacancy would continue for three months or more until the next regularly scheduled countywide election or municipal election, the vacancy shall temporarily be filled by the majority of the remaining members of the board. The appointee shall hold office only until the next regularly scheduled countywide election or municipal election, as the case may be.

SEC. 2. Section 5006 of the Education Code is amended to read:

5006. When an elementary, unified, high school, community college district or community college district trustee area, includes within its boundaries the same territory, or territory that is in part the same, as a city whose charter requires a regular city election to be held in each odd-numbered year, the consolidated governing

board member elections of the elementary, unified, high school, community college district or community college district trustee area may be held on a Tuesday in the odd-numbered year and may be further consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. Such consolidation shall be effected by the officer conducting the election having jurisdiction of the elementary, unified, high school or community college district upon the written request of the governing board of the elementary, unified, high school or community college district, with the written consent of the legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member elections are affected. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

When a high school district, community college district, or community college trustee area election is consolidated with that of a city pursuant to this section, or when a high school district, community college district, or community college trustee area is governed by the charter of a city providing for elections on dates other than those specified in this code, and, in either case, such high school district, community college district, or community college trustee area also has within its boundaries component districts whose elections would otherwise be held on the date specified in this code, then the elections in the component districts may be consolidated with the election in the high school district, community college district, or community college trustee area. Such consolidation shall be effected by the officer conducting the election having jurisdiction of the component districts upon the written request of the governing boards thereof and with the written consent of the governing boards of the districts whose governing board member elections are to be consolidated with those of the component districts.

SEC. 3. Section 5007 of the Education Code is amended to read:

5007. When an elementary, unified, high school, community college district includes within its boundaries the same territory, or territory that is in part the same, as a city which holds a city election on the first Tuesday after the first Monday in March in each even-numbered year, the consolidated governing board member elections of the elementary, unified, high school, or community college district, may, at the discretion of the county superintendent of schools, be held on the first Tuesday after the first Monday in March in the even-numbered year and may be further consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. Such consolidation shall be effected by the officer conducting the election having jurisdiction of the elementary, unified, high school, or community college district upon the written request of the governing board of the elementary, unified, high school, or community college district, with the written consent of the

legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member elections are affected. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of such incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he shall hold office until a successor qualifies therefor, but in no event shall the term of an incumbent be extended to exceed four years.

SEC. 4. Section 5010 of the Education Code is amended to read:

5010. When a community college district or community college district trustee area includes within its boundaries the same territory, or territory that is in part the same, as a chartered city which holds a city election on a date other than one of the regular election dates established by Division 4 (commencing with Section 2500) of the Elections Code for the conduct of city elections in odd-numbered years, the governing board member elections of the community college district or community college district trustee area may be consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. Such consolidation shall be effected by the officer conducting the election having jurisdiction of the community college district upon the written request of the governing board of the community college district, with the written consent of the legislative body of the city. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of such incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he shall hold office until a successor qualifies therefor, but in no event shall the term of an incumbent be extended to exceed four years.

SEC. 5. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either call an election or make a provisional appointment to fill the vacancy.

(b) When an election is called, it shall be held on the next established election date provided pursuant to Division 4 (commencing with Section 2500) of the Elections Code not less than

98 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 30-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the appropriate percentage of registered voters of the district who voted in the last regular election for governing board members, as follows:

(1) In districts in which less than 75,000 voters voted 5 percent of the number of such voters.

(2) In districts in which 75,000 or more, but less than 200,000, voters voted 3,750 plus 2½ percent of the number, over 75,000, of such voters.

(3) In districts in which 200,000 or more voted 6,875 plus 1 percent of the number, over 200,000, of such voters.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the appointee during the 30-day period following his appointment and within which a petition calling for a special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) No person appointed as a successor to serve during the remainder of or a portion of a term in which a vacancy occurs shall be designated as an incumbent, a member of the governing board, a school board member, or other designation indicating incumbency, for purposes of the next general election of governing board members.

(g) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

(h) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 6. Section 5093 of the Education Code is amended to read:

5093. (a) There shall be no special election or appointment to fill a vacancy on a governing board if the vacancy occurs within four months of the end of the term of that position and the incumbent is not reelected to fill the position.

(b) Section 5091 shall not apply to a vacancy on a governing board if the vacancy occurs during the period between four months and 98 days prior to a regularly scheduled governing board election and the position is not scheduled to be filled at such election. In such a case, the position shall be filled at a special election for that position to be consolidated with the regular election. A person elected to fill a position under this subdivision shall take office at the next regularly scheduled meeting of the governing board following the election and shall serve only until the end of the term of the position which he was elected to fill.

(c) If a special election pursuant to Section 5091 could be consolidated with the next regular election for governing board members, and the vacant position is scheduled to be filled at such regular election, there shall be no special election.

SEC. 7. Section 5302 of the Education Code is amended to read:

5302. The duties of the county superintendent of schools having jurisdiction of a school district election or community college district election shall be:

(a) To call elections when ordered under the provisions of this code.

(b) To prepare recommendations, statements, or arguments for any election in which they are required, as provided in this code.

(c) To receive petitions as authorized by this code.

SEC. 8. Section 5322 of the Education Code is amended to read:

5322. Whenever an election is ordered, the governing board of the district or the board or officer authorized by this code to make such designations shall, concurrently with or after the order of election but not less than 98 days prior to the date set for the election, by resolution delivered to the county superintendent of schools and the officer conducting the election specify the following, or such of the following as he or it may have authority to designate:

(a) The date of the election.

(b) The purpose of the election.

The resolution or resolutions shall be known as "specifications of the election order" and shall set forth the authority for ordering the election, the authority for the specification of the election order and the signature of the officer or the clerk of the board by law authorized to make the designations therein contained.

SEC. 9. Section 5324 of the Education Code is amended to read:

5324. At least 95 days prior to the date specified for the holding of any school election, the county superintendent of schools shall deliver to the county clerk or registrar of voters, if such office has been established in the county where the election is to be held, copies of:

(a) The order of election.

(b) The formal notice of election.

SEC. 10. Section 5325 of the Education Code is amended to read:

5325. Any school district election or community college district election ordered to be held in accordance with the provisions of this code shall be called by the county superintendent of schools having jurisdiction of the election by causing the:

(a) Posting or publication of notices of election, and

(b) Delivery of a copy of the formal notice of election to the county clerk or registrar of voters at least 95 days prior to the date of the election.

SEC. 11. Section 5340 of the Education Code is amended to read:

5340. School district governing board or community college district governing board member elections for two or more districts of any type to be held in the same district or area on the same day shall be consolidated so that a person entitled to vote in both or all of such elections may do so at the same time and place and using the same ballot.

When a consolidated election is required by this section to be held, the basic unit for conducting the election shall be the elementary district. The county superintendent of schools having jurisdiction shall notify the governing boards of all school and community college districts in writing at least 120 days prior to the date of the election that a consolidated election is required to be held.

SEC. 12. Section 5342 of the Education Code is amended to read:

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county or other political subdivision, the district election may be either completely or partially consolidated with such election or elections pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

Such consolidation may be effected by the officer conducting the election upon receipt of resolutions from two or more political subdivisions calling elections to be held on the same day whose boundaries are totally or partially the same territory; provided such resolutions are delivered to the officer conducting the election at least 80 days prior to the date of the election.

CHAPTER 748

An act to add Section 202.5 to the Code of Civil Procedure, relating to jury duty.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 202.5 is added to the Code of Civil Procedure, to read:

202.5. A peace officer, as defined in Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code, shall be exempt from jury service.

CHAPTER 749

An act to repeal and add Article 1.1 (commencing with Section 14784.1) of, and to repeal Article 1.5 (commencing with Section 14785) of, Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to recycling.

[Approved by Governor September 12, 1977 Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Article 1.1 (commencing with Section 14784.1) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Article 1.1 (commencing with Section 14784.1) is added to Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 1.1. Recycling

14784.1. The Legislature finds and declares that it is the policy of the state to conserve and protect its resources. The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

The Legislature further finds and declares that the volume of solid waste generated within the state coupled with an increased rate in the consumption of paper products and the absence of adequate programs and procedures for the reuse of these materials threaten the quality of the environment and well-being of the people of California.

In making these findings the Legislature declares that the policy and intent of this article is to improve environmental quality by the recycling of paper products.

14784.2. For the purposes of this article, the term "recycled paper" shall mean all paper and woodpulp products containing postconsumer waste and secondary waste materials as specified in this section. "Postconsumer waste," means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. "Secondary waste," means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic

value, and includes postconsumer waste, but does not include mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

Recycled paper means a paper product with not less than 50 percent of its total weight consisting of secondary and postconsumer waste with not less than 10 percent of its total weight consisting of postconsumer waste.

14784.3. The Department of General Services shall revise its procedures and specifications for state purchases of paper to give preference, wherever feasible, to the purchase of paper products containing recycled paper.

The department shall give preference to the suppliers of recycled paper products if the bids of such suppliers do not exceed by more than 5 percent the lowest bid or price quoted by suppliers offering nonrecycled paper products. Such preference shall expire after five years from the effective date of this section.

To encourage the use of postconsumer waste, the department's specifications shall require recycled paper contracts to be awarded to the bidder whose paper contains the greater percentage of postconsumer waste if the fitness and quality and price are otherwise equal.

The department may adopt rules and regulations to carry out the provisions of this article.

14784.4. The director shall report to the Legislature with respect to the revising of its specifications pursuant to Section 14784.3 on or before January 2, 1979.

14784.5. (a) The director shall review the procurement specifications currently used by the department in order to eliminate, wherever economically feasible, discrimination against the procurement of recovered resources and recycled materials.

(b) The director shall review the recycled paper content specifications at least annually to consider increasing the percentage of recycled paper in paper and woodpulp product purchases.

(c) When contracting with the department for the sale of material subject to this article, the contractor shall certify in writing to the contracting officer or his representative that the material offered contains the minimum percentage of recycled paper required by Section 14784.2 and shall specify the percentage of recycled paper content in the paper or paper products.

Such certification shall be furnished under penalty of perjury.

(d) The department shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of materials which may be recycled or reused when discarded.

(e) The department shall make every effort to eliminate purchases of paper and paper products deemed potential contaminants to the state's recycling program.

14784.6. The department shall require the persons with whom it contracts to use, to the maximum extent economically feasible in the performance of the contract work, recycled paper.

14784.7. The department, with the advice of the State Solid Waste Management Board, shall establish a paper recycling plan for all paper refuse of all state agencies and all offices in state buildings in Sacramento, Los Angeles, and San Francisco Counties, and in any other area as the director deems feasible. The plan shall provide either for the collection and sale of wastepaper to private paper brokers, recycling plants, or the operation of such plants by the state, or a combination thereof. The plan shall be put into operation, to the extent feasible, as soon as possible.

14784.8. The department is authorized to contract as necessary for the recycling of paper products which have been returned pursuant to Section 14784.7.

14785. Revenues received from sale of wastepaper through paper recycling programs operated by the department shall be used when appropriated by the Legislature, first, to offset recycling program costs, and second, to reduce increased charges for recycled paper furnished to state agencies by the department due to the preference which must be given the suppliers of recycled paper pursuant to Section 14784.3. Any remaining revenues not expended during a fiscal year shall be transferred to the General Fund.

14785.1. Fitness and quality being equal, all local public agencies shall purchase recycled paper and paper products instead of unrecycled paper or paper products whenever available at no more than the total cost of unrecycled paper and paper products. All local public agencies may and state agencies shall give preference to the suppliers of recycled paper or paper products if the bids of such suppliers do not exceed by more than 5 percent the lowest bid or price quoted by suppliers offering unrecycled paper or paper products. Such preference shall expire after five years from the effective date of this section.

14785.2. All local public agencies shall require the bidder to specify the percentage of recycled paper content in the paper or paper products. All contract provisions impeding the consideration of products with reclaimed paper content shall be deleted in favor of performance standards.

All printing contracts made by any local agency shall provide that the paper used shall meet the requirements of these provisions.

Except as otherwise provided for in this article, state agencies shall also be subject to the provisions of this section.

14785.3. This article shall not apply to any contract in existence on the effective date of this article.

SEC. 3. Article 1.5 (commencing with Section 14785) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code is repealed.

CHAPTER 750

An act to amend Section 5091 of the Education Code, to amend Section 10211 of, and to add Section 10210.5 to, the Elections Code, and to repeal Section 36512.3 of the Government Code, relating to elections.

[Approved by Governor September 12, 1977 Filed with Secretary of State September 12, 1977]

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

SECTION 1. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either call an election or make a provisional appointment to fill the vacancy.

(b) When an election is called, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 74 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 30-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the appropriate percentage of registered voters of the district who voted in the last regular election for governing board members, as follows:

(1) In districts in which less than 75,000 voters voted 5 percent of the number of such voters.

(2) In districts in which 75,000 or more, but less than 200,000, voters voted 3,750 plus 2½ percent of the number, over 75,000, of such voters.

(3) In districts in which 200,000 or more voted 6,875 plus 1 percent of the number, over 200,000, of such voters.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the

appointee during the 30-day period following his appointment and within which a petition calling for a special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 2. Section 10210.5 is added to the Elections Code, to read:

10210.5. No title or degree shall appear on the same line on a ballot as a candidate's name, either before or after the candidate's name, in the case of any election to any office.

SEC. 3. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination papers to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating the principal professions, vocations, or occupations of the candidate. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed."

(b) Neither the Secretary of State nor any other election official shall accept a designation which:

(1) Would mislead the voter.

(2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) Abbreviates the word "retired" or places it following any word or words which it modifies.

(4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) Uses the name of any political party, whether or not it has qualified for the ballot.

(6) Uses a word or words referring to a racial, religious, or ethnic group.

(7) Refers to any activity, which activity is prohibited by law.

If upon checking the nomination papers the election official finds the designation to be in violation of any of the restrictions set forth in this subdivision, the election official shall notify the candidate by registered mail return receipt requested. The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation. In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(c) The designation shall remain the same for all purposes of both primary and general elections unless the candidate, at least 70 days prior to the general election requests in writing a different designation which the candidate is entitled to use at the time of the request.

(d) In all cases words so used shall be printed in eight-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the election official shall use a type size sufficiently smaller to meet these requirements.

(e) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965, as amended by Public Law 94-73, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with the provisions of this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 4. Section 36512.3 of the Government Code is repealed.

CHAPTER 751

An act relating to the Public Employees' Retirement System and making an appropriation therefor.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. The Department of Finance with the cooperation of the Public Employees' Retirement System and the State Personnel Board shall conduct a study to evaluate the current membership categories for state employees in the Public Employees' Retirement System, the criteria used and the assumptions involved in assigning classes of employment to those categories, and the similarities and differences in the retirement benefits provided those categories. If deficiencies are found, recommendations for improvement shall be made. The findings shall include postretirement employment statistics relating to early retirement of state members and its effect on the adequacy of state member retirement benefits.

The findings shall also include the anticipated cost of all recommendations and suggested methods for funding such cost and shall be transmitted to the Legislature by January 1, 1979.

SEC. 2. There is hereby appropriated to the Department of Finance from the General Fund the sum of five thousand dollars ($5,000) for allocation to the Public Employees' Retirement System, the State Personnel Board, and the Department of Finance to fund the actuarial and administrative work necessary to accomplish the objective of this act.

CHAPTER 752

An act to amend Section 22464 of the Financial Code, relating to financial institutions.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 22464 of the Financial Code is amended to read:

22464. No licensee shall knowingly induce any borrower to split up or divide any loan with any other licensee. No licensee shall induce or permit any borrower to be or to become obligated directly or indirectly, or both, under more than one contract of loan at the same time with the same licensee for the purpose or with the result of obtaining a higher rate of charge than would otherwise be

permitted by this article.

For the purposes of this section, "borrower" includes any husband and wife whether jointly or severally obligated.

CHAPTER 753

An act to add Sections 23826.8 and 23826.9 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 23826.8 is added to the Business and Professions Code, to read:

23826.8. Notwithstanding any other provision of law, the director may in the public interest authorize the conversion of any on-sale general license for seasonal business issued before July 1, 1977, in a county with a population of less than 50,000 to an on-sale general license when the director makes a finding that an increase in transient or seasonal population warrants the issuance of additional on-sale general licenses in any such county. The director shall conduct a drawing to determine the priority for the conversion of any such licenses.

The Legislature by enacting this section, declares and finds that specified counties in California, whose economy is dependent upon the year-round use of those county's recreational facilities, have a need for additional on-sale general licenses and it is in the best interests of such counties to convert existing on-sale general licenses for seasonal business to on-sale general licenses rather than allowing the issuance of additional on-sale general licenses.

SEC. 2. Section 23826.9 is added to the Business and Professions Code, to read:

23826.9. Any on-sale general license issued pursuant to Section 23826.8 shall be accompanied by the fee required by Section 23954. Such license shall not be transferred or sold within seven years of the effective date of its issuance, except the director may authorize such transfer or sale in cases of extreme hardship, such as, but not limited to, death, illness or financial disaster.

CHAPTER 754

An act to add Chapter 17.8 (commencing with Section 7320) to Division 7 of Title 1 of the Government Code, relating to displaced homemakers, and making an appropriation therefor.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

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

SECTION 1. This act is known and may be cited as the "Displaced Homemaker Employment Act."

SEC. 2. Chapter 17.8 (commencing with Section 7320) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.8. DISPLACED HOMEMAKERS

7320. The Legislature hereby finds and declares that there is an ever-increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, or other loss of family income. As a consequence, displaced homemakers are very often without any source of income; they are ineligible for categorical welfare assistance; they are subject to the highest unemployment rate of any sector of the work force; they face continuing discrimination in employment because they are older and have no recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security because they are too young, and for many, they will never qualify for social security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for Medi-Cal, and are generally unacceptable to private health insurance plans because of their age.

The Legislature further finds and declares that homemakers are an unrecognized part of the work force who make an invaluable contribution to the welfare of the society as a whole.

It is the intention of the Legislature in enacting this chapter to provide the necessary counseling, training, jobs, services and health care for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life and to improve the health and welfare of this ever-growing group of citizens.

7321. As used in this chapter, "displaced homemaker" is an individual who:

(a) Is over 35 years of age;

(b) Has worked without pay as a homemaker for his or her family;

(c) Is not gainfully employed;

(d) Has had, or would have, difficulty finding employment; and

(e) (1) Has depended on the income of a family member and has lost that income; or

(2) Has depended on government assistance as the parent of dependent children, but who is no longer eligible for such assistance.

7322. The Secretary of Health and Welfare shall establish a multipurpose service center for displaced homemakers in the County of Los Angeles. To the greatest extent possible the secretary shall make grants to nonprofit agencies or organizations to carry out the various programs of the centers, as enumerated in Sections 7324 to 7330, inclusive. The service center shall be designed and staffed as follows:

(a) The multipurpose service center shall be designed to provide displaced homemakers with the necessary counseling, training, skills, services, and education to become gainfully employed, healthy, and independent.

(b) To the greatest extent possible, the staff of the service center, including supervisory, technical, and administrative positions shall be filled by displaced homemakers. Where necessary, potential staff members shall be provided with on-the-job training by independent contractors or volunteer agencies.

7323. The secretary shall explore all possible sources of funding and in-kind contributions from federal, local, and private sources in establishing the service center, including building space, equipment, and qualified personnel for training programs.

7324. The multipurpose service center shall have a job-counseling program for displaced homemakers. Job counseling shall be specifically designed for the person reentering the job market after a number of years as a homemaker. The counseling will take into account, and build upon, the skills and experiences of a homemaker. Peer counseling and job readiness as well as skill updating and development shall be emphasized.

7325. The multipurpose service center shall have a job-training program for displaced homemakers. The staff at the center shall work with local government agencies and private employers to develop training programs for available jobs in the public and private sectors. The job-training programs shall provide a stipend for trainees.

7326. The service center shall include, but not be limited to, the following job-training programs:

(a) Lay advocates. This program shall be directed toward developing skills in counseling and advising on administrative procedures in government programs such as social security, supplemental security income, welfare, and unemployment, in order that such trainees will be trained for employment in social service agencies on a community level, such as senior citizen centers and legal aid offices.

(b) Home health technicians. This program shall be directed toward developing skills in nutrition, basic health care, and nursing for the disabled and elderly, in order that such trainees will be trained for employment by persons who are homebound through illness or disability and unable to care for themselves and their own households.

(c) Health care counselors. This program shall be directed toward developing skills in counseling techniques and in basic health care, especially for middle years individuals, in order that such trainees will be trained for employment in community and hospital outpatient health clinics.

7327. Each of the job-training programs enumerated in Section 7326 shall have as a goal for the first year, training and placing displaced homemakers, some of whom could be employed in the service programs specified in Section 7324. In addition, the service center staff shall develop with the Employment Development Department plans for including more displaced homemakers in existing job-training and placement programs.

7328. Service center staff shall be responsible for assisting the trainee in finding permanent employment. To this end, the secretary and the service center staff shall work with the Employment Development Department and the prime sponsors under the Comprehensive Employment and Training Act of 1974 in the area of the center to secure employment for displaced homemakers.

7329. The multipurpose service center shall include, but not be limited to, the following service programs for displaced homemakers:

(a) A well-woman health clinic. Based on principles of preventative health care and consumer health education, the clinics shall be staffed to the greatest extent possible by displaced homemakers and serve the health needs of older women in particular. The functions of the clinic shall include:

(1) Basic physical and gynecological examinations with emphasis on screening for common health problems of older women. The examinations may be conducted by nurse practitioners. Emphasis of such program shall be on explanation and education about health care and physical well-being.

(2) Information and referral to physicians and clinics.

(3) Discussion and activity groups on menopause, aging, weight, and nutrition.

(4) Alcohol and drug addiction programs designed specifically to deal with the social and physical causes of addiction among displaced homemakers and other middle-aged women.

(b) Money management courses, including information and assistance in dealing with insurance programs (life, health, home, and car), taxes, mortgages, loans, and probate problems.

(c) Outreach and information for government programs, including concrete information and assistance with supplemental security income, social security, Veterans Administration benefits,

welfare, food stamps, unemployment insurance, and Medi-Cal.

(d) Educational programs, including courses offering credit through community colleges or leading toward a high school equivalency degree. These courses shall be designed to supplement the usual academic course offerings with classes geared toward older persons to improve their self-image and abilities.

7330. The secretary, in consultation with the director of the service center, shall establish regulations concerning the eligibility of persons for the job training and other programs of the multipurpose service center, the level of stipends for the job training programs described in Section 7305, a sliding fee scale for the service programs described in Section 7309, and such other matters as the secretary deems necessary. Eligibility for services within the multipurpose service center shall be limited to those persons with severe social or economic circumstances.

7331. (a) The secretary shall require the director and staff of the multipurpose service center to evaluate the effectiveness of the job training, placement and service components of the center. Such evaluation shall include the total number of persons making application for services provided by the centers, the number of persons selected for services by each type of service provided, a description of the social and economic characteristics of persons receiving services by type of service provided, and an assessment of appropriate criteria for defining "persons with severe social or economic circumstances" for purposes of Section 7330 for each type of service provided. The evaluation shall assess the effectiveness of each type of service in removing or reducing barriers handicapping displaced homemakers from achieving independence and self-sufficiency, and shall describe the costs associated with each type of service.

(b) The evaluation shall identify and describe the range and type of services being provided by existing agencies within the area served by the service center which are comparable to services provided by the center. The evaluation shall identify and describe the extent to which comparable services provided by existing agencies can serve as resources to the service centers, and shall also identify which existing agency, if any, would be suitable for locating a displaced homemaker services center program if that program were to be continued.

(c) There shall be a first-year evaluation in accordance with the requirements of this section filed by the director of the center with the secretary and the Legislature no later than February 1 of the first year of operation; and there shall be a second-year evaluation filed by the director with the secretary and the Legislature no later than January 1 of the year after the second year of operation.

7332. The secretary may delegate any or all of the authority granted him by this chapter to whatever department within the Health and Welfare Agency which he deems appropriate.

7333. Two years after this act goes into effect the Secretary of the

Health and Welfare Agency and the Legislative Analyst shall report to the Legislature on the effectiveness of this program.

7334. This chapter shall remain in effect only until January 1, 1980, and after that date shall remain in effect only in the event that the Legislature appropriates through the annual Budget Act sufficient funds to continue the center, or federal-state funds are made available on a 90/10 percent matching basis.

7335. It is the intent of the Legislature to provide for the continued funding of displaced homemaker center projects in accordance with the availability of federal funds through the establishment of a federal program, and the appropriation of state funds on a matching basis.

Displaced homemaker centers shall be eligible to apply for federal funding to continue their projects after the expiration of current state funding.

SEC. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Secretary of Health and Welfare for the purpose of carrying out the provisions of this act. Such appropriation shall be available for expenditure until January 1, 1980.

CHAPTER 755

An act to amend Sections 7311 and 7314 of the Government Code, relating to displaced homemakers, and making an appropriation therefor.

[Approved by Governor September 12, 1977 Filed with Secretary of State September 12, 1977.]

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

SECTION 1. Section 7311 of the Government Code is amended to read:

7311. (a) The secretary shall require the director and staff of the multipurpose service center to evaluate the effectiveness of the job training, placement and service components of the center. Such evaluation shall include the number of persons trained, the number of persons placed in employment, follow-up data on such persons, the number of persons served by the various service programs, and cost effectiveness of the various components of the center.

(b) There shall be a first-year evaluation in accordance with the requirements of this section filed by the director with the secretary no later than February 1, 1977; there shall be a second-year evaluation filed by the director with the secretary no later than January 1, 1978; and there shall be a third-year evaluation filed no later than April 1, 1979.

SEC. 2. Section 7314 of the Government Code is amended to

read:

7314. (a) Except as provided in subdivison (b), this chapter shall remain in effect only until January 1, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1978, deletes or extends such date.

(b) The provisions of this chapter applicable to the multipurpose service center for displaced homemakers in the County of Alameda shall remain in effect only until January 1, 1979, and as of such date are repealed, unless a later enacted statute, which is chaptered on or before January 1, 1978, deletes or extends such date.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Secretary of Health and Welfare for the purpose of carrying out the provisions of law relating to the multipurpose service center for displaced homemakers in the County of Alameda. Such appropriation shall be available for expenditure until January 1, 1979.

CHAPTER 756

An act making an appropriation for the state park system, and in this connection amending and supplementing the Budget Act of 1977 by adding Section 2.9C thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977.]

I am reducing the appropriation made by this bill from $5,000,000 to $2,500,000 by eliminating Item 443C(a) which would have appropriated $2,500,000 for the acquisition of the Malibu Pier and adjacent lands for the state park system. Since public access to the pier is presently available and access to the beach and ocean is provided at two nearby state parks, I do not believe it is necessary for the State to acquire this property.

With this reduction, I approve Senate Bill No. 448

EDMUND G BROWN JR., Governor

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

SECTION 1. Section 2.9C is added to the Budget Act of 1977, to read:

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

SEC. 2.9C. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1977–78, 1978–79, and 1979–80 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies,

planning and working drawings shall be available for expenditure only during the 1977–78 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

CAPITAL OUTLAY

Resources

443C—For capital outlay, Department of Parks and Recreation, for purposes set forth in paragraph (1) of subdivision (b) and subdivision (c) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund 5,000,000

Schedule:

(a) Malibu Beach and adjoining pier—acquisition and planning (structural safety report) 2,500,000

provided, that none of the funds appropriated for this project may be expended for the appraisal or purchase of real property until the State Public Works Board has approved a report regarding the structural safety, costs of deferred maintenance, and costs of rehabilitation of the pier and, on the basis of that report, also has determined that the pier is suitable for public ownership.

(b) Santa Susana Mountains—acquisition 2,500,000

provided, that none of the funds appropriated for acquisition of parklands by this item may be encumbered for the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

Provided, further, that none of the funds appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

SEC. 2. The acquisitions authorized by this act shall be made pursuant to the Property Acquisition Law (commencing with Section 15850 of the Government Code).

SEC. 3. The Legislature finds and declares as follows:

Malibu Beach is one of the most popular and heavily used beaches anywhere. The owner of approximately 650 feet of beach adjacent to the Malibu Pier has offered to sell to the state this beach property and adjacent pier at what he believes is significantly below fair market value, thereby making a partial gift to the state.

The Malibu Pier is an historical landmark and is the only pier owned by a willing seller between Pt. Hueneme and Santa Monica, a stretch of about 50 miles of beach that adjoins the most heavily populated portion of the state.

Members of the public are currently welcome on this property as customers of the business operation.

This is the last large piece of undeveloped beach property in this portion of Malibu.

The Malibu unincorporated area is comprised of 27 miles of beach coastline; 21 miles of the beach lands are privately owned and only six miles are publicly owned.

SEC. 4. Sections 1 and 2 of this act shall become operative on July 1, 1977.

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

Inasmuch as this act amends the Budget Act of 1977, which will become operative on July 1, 1977, and this act provides for the acquisition of 650 feet of exceptionally valuable beach frontage and other lands that are greatly needed for the state park system, it is necessary that this act take effect immediately.

CHAPTER 757

An act to amend Section 19627.5 of, and to add Section 19630.3 to, the Business and Professions Code, relating to fairs, and making an appropriation therefor.

[Approved by Governor September 12, 1977. Filed with Secretary of State September 12, 1977]

I am eliminating the 1978–79 appropriation and the 1979–80 appropriation A task force is currently being formed with the participation of the Joint Committee on Fairs Allocation and Classification, the Department of Food and Agriculture, the Department of Finance, the Legislative Analyst's Office, and fairs' representatives to investigate the long-term funding problems of fairs. The work of this group should be accomplished well in advance of 1979–80

With this reduction, I approve Assembly Bill No 700

EDMUND G. BROWN JR , Governor

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

SECTION 1. Section 19627.5 of the Business and Professions Code is amended to read:

19627.5. Notwithstanding the provisions of Section 19627, any unanticipated revenues, other than any allocation from the state, which are in excess of the approved budget for any fiscal or calendar year of any county, district, combined county and district fair, or citrus fruit fairs, shall be retained by such fair and may be expended for any purpose described in Section 19627.3; provided, however, that the amount so retained each budget year pursuant to this section shall not exceed 20 percent of the budgeted revenue.

Such funds may be expended, without regard to any fiscal year, by any fair to which Section 19627 applies, upon positive action by the board of directors of such fair, which shall be recorded in the official minutes of such fair approving a plan of expenditure for such funds for the purposes described in Section 19627.3.

SEC. 2. Section 19630.3 is added to the Business and Professions Code, to read:

19630.3. There is hereby appropriated from the fund the sum of four million dollars ($4,000,000) each year for the fiscal years 1977–78, 1978–79, and 1979–80, to the Department of Food and Agriculture for allocation, without regard to any fiscal year, to county, district, combined county and district, or citrus fruit fairs for major and deferred maintenance projects.

CHAPTER 758

An act to add Section 52302.7 to the Education Code, relating to regional occupational centers.

[Became law without Governor's signature September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 52302.7 is added to the Education Code, to read:

52302.7. A regional occupational center may provide, on an individual referral basis, academic and personal development instruction for adult students enrolled in a vocational education course conducted by the regional occupational center when it is determined that it is essential for such instruction to be given to ensure the employability of the adult student.

CHAPTER 759

An act to amend Section 1043 of the Penal Code, relating to trials.

[Became law without Governor's signature September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 1043 of the Penal Code is amended to read:

1043. (a) Except as otherwise provided in this section, the defendant in a felony case shall be personally present at the trial.

(b) The absence of the defendant in a felony case after the trial has commenced in his presence shall not prevent continuing the trial to, and including, the return of the verdict in any of the following cases:

(1) Any case in which the defendant, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that the trial cannot be carried on with him in the courtroom.

(2) Any prosecution for an offense which is not punishable by death in which the defendant is voluntarily absent.

(c) Any defendant who is absent from a trial pursuant to paragraph (1) of subdivision (b) may reclaim his right to be present at the trial as soon as he is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.

(d) Subdivisions (a) and (b) shall not limit the right of a defendant to waive his right to be present in accordance with Section 977.

(e) If the defendant in a misdemeanor case fails to appear in person at the time set for trial or during the course of trial, the court shall proceed with the trial, unless good cause for a continuance exists, if the defendant has authorized his counsel to proceed in his absence pursuant to subdivision (a) of Section 977.

If the court finds the defendant has absented himself voluntarily with full knowledge that the trial is to be held or is being held, the court, in its discretion, may do one or more of the following, as it deems appropriate:

(1) Continue the matter.

(2) Order bail forfeited or revoke release on the defendant's own recognizance.

(3) Issue a bench warrant.

(4) Proceed with the trial.

Nothing herein shall limit the right of the court to order the defendant to be personally present at the trial for purposes of identification unless counsel stipulate to the issue of identity.

CHAPTER 760

An act to add Section 172.3 to the Penal Code, relating to alcoholic beverages.

[Became law without Governor's signature September 13, 1977
Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 172.3 is added to the Penal Code, to read:

172.3. The provisions of Section 172a shall not apply to the sale or exposing or offering for sale of any alcoholic beverages on the premises of, and by the holder or agent of a holder of, any off-sale license situated within 1½ miles from the grounds of the University of Redlands.

CHAPTER 761

An act to add Chapter 9 (commencing with Section 25898) to Division 20 of the Health and Safety Code, relating to aerosol propellants.

[Approved by Governor September 13, 1977. Filed with
Secretary of State September 13, 1977.]

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

SECTION 1. Chapter 9 (commencing with Section 25898) is added to Division 20 of the Health and Safety Code, to read:

Chapter 9. Aerosol Propellants

25898. (a) On and after October 15, 1978, no person shall manufacture in this state a saturated chlorofluorocarbon not containing hydrogen for use as an aerosol propellant in a can, canister, or other container.

(b) On and after December 15, 1978, no person shall manufacture in this state any can, canister, or other container which is intended to utilize an aerosol propellant chemically composed, in whole or in part, of a saturated chlorofluorocarbon not containing hydrogen.

(c) On and after April 15, 1979, no person shall sell in this state any can, canister, or other container which utilizes an aerosol propellant chemically composed, in whole or in part, of a saturated chlorofluorocarbon not containing hydrogen.

25898.5. Notwithstanding the foregoing provisions of this chapter, nothing in this chapter shall preclude the manufacture or sale of saturated chlorofluorocarbons not containing hydrogen for any of the uses exempted in currently proposed federal regulations,

to be modified as such federal regulations are modified.

25899. The provisions of subdivisions (a) and (b) of Section 25898 shall be superseded by the enactment or adoption of any federal law or regulation prohibiting the manufacture of any aerosol product utilizing saturated chlorofluorocarbons not containing hydrogen and prohibiting the manufacture of saturated chlorofluorocarbons not containing hydrogen for use as an aerosol propellant in a can, canister, or other container.

SEC. 2. The California Legislature finds: that available scientific information, including the September 1976 study of the National Academy of Sciences Panel on Impacts of Stratospheric Change and the June 1975 report of the Federal Task Force on Inadvertent Modification of the Stratosphere (IMOS), indicates a substantial possibility that chlorofluoromethanes, or fluorocarbon compounds, when discharged into the atmosphere, dissipate or impair the earth's protective layer of ozone; that the dissipation or impairment of even a small portion of the ozone layer is likely to decrease its screening of ultraviolet radiation; that any significant increase in human exposure to ultraviolet radiation is likely to increase the risk of skin cancer and other serious illness; that any significant increase in exposure of the environment to ultraviolet radiation may endanger the environment and adversely affect public health and welfare; that the use of aerosol containers discharges a saturated chlorofluorocarbon not containing hydrogen which is eventually dissociated in the stratosphere by ultraviolet radiation, causing, among other results, the production of chlorine which serves as a catalyst in the dissipation of stratospheric ozone; that the United States Food and Drug Administration has announced that it plans to begin labeling and eventually phase out the use of aerosol fluorocarbons; that an increasing number of individuals, primarily children and young adults, have died because of the inhalation of saturated chlorofluorocarbons not containing hydrogen in aerosol containers used as a propellant for certain products, including, but not limited to, cleaning fluids, air fresheners, food products, lubricants, and other personal products; that according to a national opinion survey conducted by the United States Consumer Product Safety Commission for November 1976, over 61 percent of those surveyed believed that fluorocarbon aerosols should be removed from the market; and that the use of aerosol containers is a danger to public health and welfare.

CHAPTER 762

An act to add Sections 23005, 25101, 25506.1, and 31125 to, to amend Sections 25100, 25102, 25104, 25216, 25504.1, 25504.2, 25506, 25530, 25602, 25606, 25608, 27202, 29560, 31018, 31101, 31400, and 31500 of, and to repeal Section 25101 of, the Corporations Code, to amend

Sections 15814, 22614, and 24608 of the Financial Code, and to amend Section 1392 of the Health and Safety Code, relating to investments.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 23005 is added to the Corporations Code, to read:

23005. The provisions of Sections 1400 and 1402 governing bankruptcy reorganizations and arrangements for corporations also apply to real estate investment trusts. For that purpose where the term "corporation" is used in such sections it shall also include the term "real estate investment trust", the terms "director" or "board of directors" shall include "trustee" or "board of trustees", the term "articles" shall include "declaration of trust" and the term "capital stock" shall include "shares of beneficial interest."

SEC. 1.5. Section 25100 of the Corporations Code, as amended by Chapter 56 of the Statutes of 1977, is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this

state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any corporation engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised under the laws of this state.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor

or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when he finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand

dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a

cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, he may in his discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner to post a bond.

(2) The commissioner may, in his discretion, (A) make such public or private investigations within or outside of this state as he deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of such Section 1280.7, and (B) publish information concerning the violation of such Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing

concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

SEC. 2. Section 25101 of the Corporations Code is repealed.

SEC. 3. Section 25101 is added to the Corporations Code, to read:

25101. The following securities are exempt from the provisions of Section 25130:

(a) Any security issued by a person which is the issuer of any security listed on a national securities exchange certified by rule or order of the commissioner.

(b) Any security issued by a person which (i) is the issuer of any security listed on a national securities exchange which is not certified by the commissioner pursuant to subdivision (a) hereof, (ii) is the issuer of any security registered under Section 12(g) of the Securities Exchange Act of 1934 or is exempt from registration under such Section 12 by Section 12(g) (2) (G) of that act, or (iii) is registered under the Investment Company Act of 1940, if in any such case, there has been filed with the commissioner a notice in such form as the commissioner shall specify by rule setting forth the following:

(1) The name of the issuer, the date of its organization, and the jurisdiction under whose laws it is organized;

(2) The issuer's taxpayer identification number as assigned by the federal Department of Internal Revenue and, if applicable, the issuer's file number under the Securities Exchange Act of 1934 or the Investment Company Act of 1940 as assigned by the federal Securities and Exchange Commission or other appropriate federal regulatory agency;

(3) A statement that the issuer has a currently effective registration under Section 12 of the Securities Exchange Act of 1934 (specifying the subsection thereof) or the Investment Company Act of 1940, or that it is exempt from registration under such Section 12 by Section 12(g) (2) (G) thereof;

(4) A statement that the issuer has a class of equity securities held by 500 or more persons and has total assets exceeding one million dollars ($1,000,000), determined in such manner as is provided by rule of the commissioner or, in the absence of such rule, in accordance with generally accepted accounting principles;

(5) A description of each security of the issuer which is to be exempted pursuant to this subdivision, and a statement that each class of common stock described in such notice, if any, possesses full voting rights equal per share to the voting rights possessed by any other class of common stock of the issuer;

(6) An undertaking to file a supplemental notice if any of the facts stated in the notice previously filed with the commissioner shall, to the knowledge of the filer of such notice, cease to be true.

(7) The name and address of the person filing the notice, the signature of such person or of the authorized principal officer of such

person (and the name of such principal officer), and a verification to the best knowledge or belief of the person signing the notice of all of the information contained in such notice.

The notice provided for herein may be filed by the issuer, any broker-dealer registered under this law or any holder of record or beneficially of any of the securities covered by such notice. Except in the case of a notice filed by an issuer, the exemption provided by this subdivision shall lapse 13 months after the filing of the notice.

(c) The exemption provided by subdivision (a) or (b) of this section shall not apply to any of the following:

(1) Securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to the exemption afforded by Regulation A under such act if the aggregate offering price of the securities offered pursuant to such exemption exceeds fifty thousand dollars ($50,000);

(2) Securities which the commissioner has found, after notice and, if requested as hereinafter provided, hearing, to be the subject of a notice or supplemental notice filed pursuant to subdivision (b) which contains any statement which is, or which was at the time of filing, materially untrue. Notice hereunder shall be given to the person named pursuant to paragraph (7) of subdivision (b), to the issuer unless the notice or supplemental notice was filed by the issuer, and to licensed broker-dealers. The notice shall state the reasons for the issuance of the notice and that the exemption pursuant to this section for the security identified therein may be terminated unless, within 10 business days, either a notice or supplemental notice is filed in accordance with subdivision (b) or a written request for hearing is received, such hearing to commence within 15 business days of the receipt of such notice unless the commissioner consents to a later date. An order terminating an exemption pursuant to this paragraph shall be effective when issued or at such time thereafter as the commissioner may provide.

(3) Securities which the commissioner has found to have ceased to be registered under Section 12 of the Securities Exchange Act of 1934 or the issuer of which has ceased to have a class of equity securities held by 500 or more persons or total assets exceeding one million dollars ($1,000,000). An order may be issued under this paragraph without notice or hearing if the facts on which it is based are stated in a notice or supplemental notice filed pursuant to subdivision (b) or are stated in a certificate filed with the Securities and Exchange Commission pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934; otherwise, such order shall be issued only as provided in paragraph (2) of this subdivision.

SEC. 4. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities

pursuant to such offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful. The rights of all parties to this agreement are expressly conditioned upon such qualification being obtained."; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of such securities is qualified under this law.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of such act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to such offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of such securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified prior to distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale, in a transaction not involving any public offering, of any bona fide general partnership, joint venture or limited partnership interest, or any beneficial interest in a trust which is a "security" within the meaning of Section 25019, if in the case of such beneficial trust interests immediately after the sale and issuance they are owned by no more than five persons.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 10 persons, provided all of the following requirements have been met:

(1) All such stock shall be evidenced by certificates which shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule of the commissioner restricting transfer of such stock in such manner as the rule provides.

(2) The offer and sale of such stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(3) The consideration to be received by the issuer for the stock to be issued shall consist of (i) only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and such enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of such enterprise immediately prior to such proposed issuance was in the same proportions as the shares of stock are to be issued, or (ii) only cash or cancellation of indebtedness for money borrowed or both upon the initial organization of the issuer, provided all such stock is issued for the same price per share, or (iii) only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders, or (iv), in a case where after the proposed issuance there will be only one owner of the stock of the issuer, any legal consideration.

(4) No promotional consideration has been given, paid, or incurred in connection with such issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of an issuer, for services rendered in connection with such founding or organizing.

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of such member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. Such notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in such form as the commissioner by rule prescribes, appointing the commissioner or his successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or

proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation which has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued such stock.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer or a self-employed individual retirement plan), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization or arrangement which, pursuant to the provisions of the National Bankruptcy Act, has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle,

and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25130.

SEC. 5. Section 25104 of the Corporations Code is amended to read:

25104. The following transactions are exempted from the provisions of Section 25130:

(a) Any offer or sale of a security by the bona fide owner thereof for his own account if the sale (1) is not accompanied by the publication of any advertisement and (2) is not effected by or through a broker-dealer in a public offering.

(b) Any offer or sale effected by or through a licensed broker-dealer pursuant to an unsolicited order or offer to buy. For the purpose of this subdivision (b) an inquiry regarding a written bid for a security or a written solicitation of an offer to sell a security made by another broker-dealer within the previous 60 days, shall not be considered the solicitation of an order or offer to buy.

(c) Any offer or sale to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer or a self-employed individual retirement plan), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(d) Any transaction or agreement between a person on whose behalf an offering is made and an underwriter or among underwriters, if the sale of the securities is qualified prior to distribution thereof in this state, if any.

(e) Any offer or sale of any security by or for the account of a bona fide secured party selling the security in the ordinary course of business to liquidate a bona fide debt.

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

(g) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of that act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(h) Any offer or sale of a security if a qualification under Chapter 2 (commencing with Section 25110) of this part for any securities of the same class has become effective within 18 months prior to such offer or sale or if a qualification under Chapter 3 (commencing with Section 25120) or Chapter 4 (commencing with Section 25130) of this

part for any securities of the same class has become effective within 12 months prior to such offer or sale, provided no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law with respect to such qualification, and, provided further, that this exemption does not apply to such securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to an exemption under Regulation A under that act if the aggregate offering price of the securities offered under such exemption exceeds fifty thousand dollars ($50,000). The commissioner may, by rule or order, withhold this exemption with respect to securities qualified only pursuant to a limited offering qualification.

SEC. 6. Section 25216 of the Corporations Code is amended to read:

25216. (a) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance. The commissioner shall, for the purposes of this subdivision, by rule define such schemes, devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

(b) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in connection with which such broker-dealer or agent engages in any fraudulent, deceptive or manipulative act or practice or makes any fictitious quotation. The commissioner shall, for the purposes of this subdivision, by rule define and prescribe means reasonably designed to prevent such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious.

(c) No broker-dealer or agent shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors to provide safeguards with respect to the financial responsibility of broker-dealers. Such rules may require a minimum capital for broker-dealers or prescribe a ratio between net capital and aggregate indebtedness or both and a fidelity bond.

(d) No broker-dealer or agent shall effect or attempt to effect in this state, in contravention of such rules as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, (1) any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege of buying or selling the security, or (2) any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege, or (3) any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege with relation to such

security.

(e) The commissioner may by rule require any licensed broker-dealer and any issuer who employs agents in connection with any security or transaction not exempted by Chapter 1 (commencing with Section 25100) of Part 2 of this division to post a surety bond in an amount not exceeding ten thousand dollars ($10,000), conditioned that the licensee or issuer will comply with the provisions of this law and the rules and orders issued thereunder. Such bond, unless previously canceled, shall cover for the entire period that the license is in effect. Any appropriate deposit of cash or securities shall be accepted in lieu of any such bond. Every bond shall provide that no suit may be maintained to enforce any liability thereon unless brought within two years after the contract of sale or other act upon which such suit is based and shall also provide that the liability of the surety on such bond to all persons aggrieved shall, in no event, exceed in the aggregate the amount thereof. Every such bond shall also contain a provision authorizing the surety thereon to cancel it upon 30 days written notice to the licensee and to the commissioner; provided, however, that such cancellation shall not affect any liability incurred or accrued prior to the effective date of such cancellation.

SEC. 6.4. Section 25504.1 of the Corporations Code, as added by Chapter 144 of the Statutes of 1977, is amended to read:

25504.1. Any person who materially assists in any violation of Section 25110, 25120, 25130, 25133, or 25401, or a condition of qualification under Chapter 2 (commencing with Section 25110) of Part 2 of this division imposed pursuant to Section 25141, or a condition of qualification under Chapter 3 (commencing with Section 25120) of Part 2 of this division imposed pursuant to Section 25141, or an order suspending trading issued pursuant to Section 25219, with intent to deceive or defraud, is jointly and severally liable with any other person liable under this chapter for such violation.

SEC. 6.5. Section 25504.2 of the Corporations Code, as added by Chapter 144 of the Statutes of 1977, is amended to read:

25504.2. (a) Any accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by such person, who has given written consent to be and has been named in any prospectus or offering circular distributed in connection with the offer or sale of securities as having prepared or certified in such capacity either any part of such document or any written report or valuation which is distributed with or referred to in any such document is jointly and severally liable with any other person liable under Section 25501 if:

(1) The part of such document so prepared or certified or the report or valuation so distributed or referred to includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

(2) The person asserting such liability acquired a security

described in such document in reliance on such untrue statement or in reliance on such part of the document or on such report or valuation without notice of such omission.

(b) Notwithstanding the provisions of subdivision (a), no such accountant, engineer, appraiser, or other person shall be liable as provided therein if such person sustains the burden of proof that:

(1) Such person had, after reasonable investigation, reasonable ground to believe and did believe, at the time such person consented to such use of such person's name, that the statements so included in such part of such document or in such report or valuation were true and that there was no omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(2) Such part of such document did not fairly represent such person's statement as an expert or was not a fair copy of or extract from such person's report or valuation as an expert; or

(3) Prior to the acquisition of the security by the person asserting the liability, such accountant, engineer, appraiser, or other person advised the issuer and the commissioner in writing that such person would not be responsible for such part of the document or the report or valuation.

(c) A person who participates in the preparation of a document described in subdivision (a) of this section shall be deemed to have prepared or certified only those portions thereof which are expressly stated with such person's written consent to have been made on such person's authority.

SEC. 6.6. Section 25506 of the Corporations Code, as amended by Chapter 144 of the Statutes of 1977, is amended to read:

25506. No action shall be maintained to enforce any liability created under Section 25500, 25501, or 25502 (or Section 25504 or Section 25504.1 insofar as they related to those sections) unless brought before the expiration of four years after the act or transaction constituting the violation or the expiration of one year after the discovery by the plaintiff of the facts constituting the violation, whichever shall first expire.

SEC. 6.7. Section 25506.1 is added to the Corporations Code, to read:

25506.1. No action shall be maintained to enforce any liability created under Section 25504.2 unless brought within one year after the discovery of the facts constituting the violation, or after such discovery should have been made by the exercise of reasonable diligence. In no event shall any such action be brought more than three years after the act or transaction constituting the violation.

SEC. 7. Section 25530 of the Corporations Code is amended to read:

25530. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, he may in his discretion bring an action in the name of the people of the State of California in the superior court to

enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the commissioner to post a bond.

A receiver or conservator appointed by the superior court pursuant to this section may, with the approval of the court, exercise all of the powers of the defendant's officers, directors, partners, trustees or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver or conservator, by reason of their exercising such powers or performing such duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) of this section a claim for ancillary relief, including but not limited to, a claim for restitution or damages under Chapter 1 (commencing with Section 25500) of this part on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award such additional relief.

SEC. 7.5. Section 25602 of the Corporations Code is amended to read:

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

SEC. 7.6. Section 25606 of the Corporations Code is amended to read:

25606. (a) The Attorney General shall render to the commissioner opinions upon all questions of law, relating to the construction or interpretation of any law under the commissioner's jurisdiction or arising in the administration thereof, that may be

submitted to the Attorney General by the commissioner, and upon the commissioner's request shall act as the attorney for the commissioner in actions and proceedings brought by or against the commissioner under or pursuant to any provision of any law under the commissioner's jurisdiction.

(b) Sections 11041, 11042 and 11043 of the Government Code do not apply to the Commissioner of Corporations.

SEC. 8. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to clause 5 of subdivision (h) of Section 25102 is twenty-five dollars ($25).

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (j) of this section) is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand five hundred fifty dollars ($1,550).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for such warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if such latter amount is not determinable at the time of qualification, such amount shall be the

then value of such additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) One hundred dollars ($100) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities;

(2) One hundred dollars ($100) plus one-tenth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be sixty dollars ($60).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to such transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing such securities pursuant to subdivision (h) of Section 25102, is ten dollars ($10) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the

amendment had been included in the original application.

(o) The fee for filing an application for a broker-dealer under Section 25211 is three hundred dollars ($300) for the first office or location and eighty-five dollars ($85) for each additional office or location in California, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every broker-dealer who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of three hundred dollars ($300) for the first office or location and eighty-five dollars ($85) for each additional office or location in California on or before the 15th day of December preceding the additional period. Within 30 days of the opening of a new branch office a broker-dealer shall pay the commissioner a fee of one hundred dollars ($100), if the branch is opened in an even-numbered year and fifty dollars ($50) if the branch is opened in an odd-numbered year.

(p) The fee for filing an application for an agent under Section 25211 is sixty-five dollars ($65) if the certificate is granted in an even-numbered year, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted and during the following calendar year. The fee for such certificate is thirty dollars ($30) if the certificate is granted in an odd-numbered year, and payment of this amount shall keep the certificate in effect during the calendar year during which it is granted. Every agent who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of sixty-five dollars ($65) on or before the 15th day of December preceding the additional period.

(q) The fee for filing an agent change-of-employment notification upon acceptance of new employment is ten dollars ($10). This subdivision shall be effective on January 1, 1977.

(r) The fee for filing an application for an investment adviser under Section 25231 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year during the following calendar year. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(s) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(t) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding such hearing.

(u) The commissioner may fix by rule a reasonable charge for any publications issued under his authority; provided, however, that such charges shall not be applicable to reports of the commissioner in the ordinary course of distribution.

(v) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(w) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

SEC. 9. Section 27202 of the Corporations Code is amended to read:

27202. Whenever the commissioner believes from evidence satisfactory to the commissioner that any individual has violated or is about to violate any provision of this division or of any certificate, demand, or requirement, or any part, provision, or condition thereof, the commissioner may bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people of the State of California, in the superior court of the State of California against the individual to enjoin the individual from continuing the violation or engaging therein, or doing any act or acts in furtherance thereof. In the action an order or judgment may be entered awarding such preliminary or final injunction as is proper.

SEC. 10. Section 29560 of the Corporations Code is amended to read:

29560. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, the commissioner may in the commissioner's discretion bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people of the State of California, in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the commissioner to post a bond.

(b) The commissioner may include in any action authorized by subdivision (a) of this section, a claim for restitution or damages under Chapter 8 (commencing with Section 29580) of this division on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award appropriate relief to such persons, if the court finds that the enforcement of the rights of such persons, whether by class action or

otherwise, would be so burdensome or expensive as to be impractical.

SEC. 11. Section 31018 of the Corporations Code is amended to read:

31018. (a) "Sale" or "sell" includes every contract or agreement of sale of, contract to sell, or disposition of, a franchise or interest in a franchise for value.

(b) "Offer" or "offer to sell" includes every attempt to dispose of, or solicitation of an offer to buy, a franchise or interest in a franchise for value.

(c) The terms defined in this section do not include the renewal or extension of an existing franchise where there is no interruption in the operation of the franchised business by the franchisee; provided, that a material modification of an existing franchise, whether upon renewal or otherwise, is a "sale" within the meaning of this section.

SEC. 12. Section 31101 of the Corporations Code is amended to read:

31101. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part the offer and sale of a franchise if the franchisor:

(a) Has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars ($5,000,000); or the franchisor has a net worth, according to its most recent audited financial statement, of not less than one million dollars ($1,000,000) and is at least 80 percent owned by a corporation which has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars ($5,000,000); and

(b) Has had at least 25 franchisees conducting business at all times during the five-year period immediately preceding the offer or sale; or has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; or if any corporation which owns at least 80 percent of the franchisor has had at least 25 franchises conducting business at all times during the five-year period immediately preceding the offer or sale; or such corporation has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; and

(c) Except as provided in subdivision (d), discloses in writing to each prospective franchisee, at least 48 hours prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 48 hours prior to the receipt of any consideration, the following information:

(1) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.

(2) The franchisor's principal business address and the name and

address of its agent in the State of California authorized to receive service of process.

(3) The business form of the franchisor, whether corporate, partnership, or otherwise.

(4) The business experience of the franchisor, including the length of time the franchisor (i) has conducted a business of the type to be operated by the franchisees, (ii) has granted franchises for such business, and (iii) has granted franchises in other lines of business.

(5) A copy of the typical franchise contract or agreement proposed for use or in use in this state.

(6) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(7) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.

(8) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor.

(9) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures or other goods relating to the establishment or operation of the franchise business, together with a description thereof.

(10) A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

(11) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.

(12) A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee or subfranchisor in whole or in part.

(13) If any statement of estimated or projected franchisee earnings is used, a statement of such estimation or projection and the data upon which it is based.

(14) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

(d) In the case of a material modification of an existing franchise, disclose in writing to each franchisee information concerning the specific sections of the franchise agreement proposed to be modified and such additional information as may be required by rule or order of the commissioner. Any agreement by such franchisee to such material modifications shall not be binding upon the franchisee if the

franchisee, within 48 hours after the receipt of such writing identifying the material modification, notifies the franchisor in writing that the agreement to such modification is rescinded. A writing identifying the material modification is received when delivered to the franchisee. A written notice by the franchisee rescinding an agreement to a material modification is effective when delivered to the franchisor or when deposited in the mail, postage prepaid, and addressed to the franchisor in accordance with any notice provisions in the franchise agreement, or when delivered or mailed to the person designated in the franchise agreement for the receipt of notices on behalf of the franchisor.

SEC. 13. Section 31125 is added to the Corporations Code, to read:

31125. (a) An application for registration of a material modification of an existing franchise or of existing franchises shall be in such form and contain such information as the commissioner may by rule prescribe, and shall be accompanied by a proposed disclosure form as specified in subdivision (b). Such an application may be included with an application pursuant to Section 31111 or 31121.

(b) It is unlawful to solicit the agreement of a franchisee to a proposed material modification of an existing franchise without first delivering to the franchisee a written disclosure, in a form and containing such information as the commissioner may by rule or order require, identifying the proposed modification, either 48 hours prior to the execution of any binding agreement by the franchisee to such modification or containing a statement that the franchisee may, by written notice mailed or delivered to the franchisor or a specified agent of the franchisor within not less than 48 hours following the execution of such agreement, rescind such agreement to the major modification.

SEC. 14. Section 31400 of the Corporations Code is amended to read:

31400. Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this law or any rule or order hereunder, the commissioner may in the commissioner's discretion bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people of the State of California, in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner to post a bond.

SEC. 15. Section 31500 of the Corporations Code is amended to read:

31500. (a) The commissioner shall charge and collect the fees fixed by this section. All fees and charges collected under this section shall be transmitted to the State Treasurer at least weekly,

accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for registration of the sale of franchises under Section 31111 is two hundred fifty dollars ($250).

(c) The fee for filing an application for renewal of a registration under Section 31121 is fifty dollars ($50).

(d) The fee for filing an amendment to the application filed under Section 31111 or 31121 is fifty dollars ($50).

(e) The fee for filing an application for major modification under Section 31125 is fifty dollars ($50), but no separate fee shall be charged for such application if it accompanies an application under Section 31111 or 31121.

SEC. 16. Section 15814 of the Financial Code is amended to read:

15814. If the commissioner retains possession of the assets of such credit union for the purpose of liquidation, the commissioner shall use the services of civil service employees of the commissioner's office and the attorneys employed by the commissioner or the Department of Justice shall render all necessary legal services, as the commissioner may request.

SEC. 17. Section 22614 of the Financial Code is amended to read:

22614. Whenever the commissioner believes from evidence satisfactory to the commissioner that any person has violated or is about to violate any provision of this division, or any provision of any order, license, decision, demand, or requirement, the commissioner may bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people, against that person, to enjoin such person from continuing such violation or engaging therein or doing any act in furtherance thereof. In the action the court may enter an order or judgment awarding such preliminary or final injunction as is proper.

SEC. 18. Section 24608 of the Financial Code is amended to read:

24608. Whenever the commissioner believes from evidence satisfactory to the commissioner that any person has violated or is about to violate any provision of this division, or any provision of any order, license, decision, demand, or requirement, the commissioner may bring an action, or the commissioner may request the Attorney General to bring an action in the name of the people, against that person, to enjoin such person from continuing such violation or engaging therein or doing any act in furtherance thereof. In the action the court may enter an order or judgment awarding such preliminary or final injunction as is proper.

SEC. 19. Section 1392 of the Health and Safety Code is amended to read:

1392. In the case of any violation of the provisions of this chapter, the commissioner may institute a proceeding, or the commissioner may request the Attorney General to institute a proceeding, to obtain injunctive or other equitable relief, including the appointment of a receiver or conservator for the defendant or the defendant's assets, in the superior court in and for the county in

which the violation occurs, or in which the principal place of business of the plan is located. The proceeding under this section shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required of the commissioner in any action commenced under this section, nor shall the commissioner be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage.

Upon a proper showing, the court shall grant the relief provided by law and requested by the commissioner.

A receiver or conservator appointed by the superior court pursuant to this section may, with the approval of the court, exercise all of the powers of the officers and directors of the plan, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver or conservator, by reason of their exercising the powers of the officers and directors of a plan pursuant to the order of, or with the approval of, the superior court.

CHAPTER 763

An act to add Chapter 13 (commencing with Section 13300) to Division 5 of, and to repeal Sections 12604.5 and 12615 of, the Business and Professions Code, relating to pricing consumer commodities.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 12604.5 of the Business and Professions Code is repealed.

SEC. 2. Section 12615 of the Business and Professions Code is repealed.

SEC. 3. Chapter 13 (commencing with Section 13300) is added to Division 5 of the Business and Professions Code, to read:

CHAPTER 13. AUTOMATIC CHECKOUT SYSTEM

13300. (a) Every retail grocery store or grocery department within a general retail merchandise store which uses an automatic checkout system shall cause to have a clearly readable price indicated on each packaged consumer commodity offered for sale from January 1, 1978, to January 1, 1980.

(b) The provisions of this section shall not apply to any of the following:

(1) Any consumer commodity which was not generally item-priced on January 1, 1977, as determined by the Department of

Food and Agriculture pursuant to subdivision (c) of Section 12604.5, as effective July 8, 1977.

(2) Any unpackaged fresh food produce, or to consumer commodities which are under three cubic inches in size, weigh less than three ounces, and are priced under thirty cents ($0.30).

(3) Any consumer commodity offered as a sale item or as a special.

(4) Any business which has as its only regular employees the owner thereof, or the parent, spouse, or child of such owner, or, in addition thereto, not more than two other regular employees.

(5) Identical items within a multi-item package.

(6) Items sold through a vending machine.

(c) For the purposes of this section:

(1) "Automatic checkout system" means a computer capable of reading the universal product code or similar code to determine the price of items being purchased.

(2) "Consumer commodity" includes:

(a) Food, including all material whether solid, liquid, or mixed, and whether simple or compound, which is used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances or ingredients added to any such material for any purpose. This definition shall not apply to individual packages of cigarettes or individual cigars.

(b) Napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, and disposable plates and cups.

(c) Detergents, soaps and other cleaning agents.

(d) Pharmaceuticals, including nonprescription drugs, bandages, female hygiene products, and toiletries.

(3) "Grocery department" means an area within a general retail merchandise store which is engaged primarily in the retail sale of packaged food, rather than food prepared for immediate consumption on or off the premises.

(4) "Grocery store" means a store engaged primarily in the retail sale of packaged food, rather than food prepared for consumption on the premises.

(5) "Sale item or special" means any consumer commodity offered in good faith for a period of seven days or less, on sale at a price below the normal price that item is usually sold for in that store. The Department of Food and Agriculture shall determine the normal sale length for consumer commodities in stores regulated pursuant to this chapter on January 1, 1977, and that period shall be used for the purposes of this subdivision. The department's determination as to the normal length of a sale shall be binding for the purposes of this section, but each such determination shall not exceed seven days.

13301. (a) The intentional violation of Section 13300 is punishable by a civil penalty of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(b) Failure to have a clearly readable price indicated on 12 units of the same item of the same commodity shall constitute a

presumption of intent to violate Section 13300.

(c) Every additional 12 units of the same item that fail to have a price indicated on them shall constitute a presumption of intent to violate Section 13300.

(d) Each day that a violation continues shall also constitute a separate violation after notification thereof to the manager or assistant manager of the retail grocery store or the grocery department of the general retail merchandise store and shall constitute a presumption of intent to violate Section 13300.

(e) Notwithstanding any other provision of law, any person may bring an action to enjoin a violation of Section 13300.

13302. Any person, firm, corporation, or association who violates Sections 13300 and 13301 shall be liable to any person injured for any losses and expenses thereby incurred, and for the sum of fifty dollars ($50) in addition thereto. The remedy set forth herein is applicable only to actions brought in the name of, and on behalf of, a single plaintiff and shall not be applicable in multiple plaintiff or class actions.

13303. Improper pricing on the shelf or on the item due to unintentional error shall not constitute a violation of this chapter.

13304. The remedies set forth in Sections 13301 and 13302 are the exclusive remedies available to any person, state or local agency or law enforcement official.

CHAPTER 764

An act to amend and repeal Section 19614.1 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 19614.1 of the Business and Professions Code is amended to read:

19614.1. Notwithstanding Section 19614, any association other than the California State Fair and Exposition or a district or county fair which handles thirty million dollars ($30,000,000) or less in the parimutuel pools operated by it during the course of a racing meeting shall be exempt from the requirements of Sections 19611, 19612, and subdivisions (c) and (d) of Section 19615.

Any such association shall deduct from the total amount handled in parimutuel pools related to its meeting 15.75 percent thereof to be distributed as license fees, commissions, and purses, and shall pay a license fee of 5 ½ percent on the amount handled by it in lieu of any other base rate, or rates, otherwise provided for. The remaining 10.25 percent so deducted shall be distributed as commissions and purses.

This section shall remain in effect until September 1, 1978, and on such date is repealed.

SEC. 2. It is the intent of the Legislature that if this bill and Assembly Bill No. 1370 are both chaptered and become effective on or before January 1, 1978, the provisions of this bill shall not become operative.

CHAPTER 765

An act to add Section 1391.2 to the Labor Code, relating to the employment of minors.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 1391.2 is added to the Labor Code, to read:

1391.2. (a) Notwithstanding Sections 1391 and 1391.1, any minor under 18 years of age who has been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who has had an equal amount of education in a private school or by private tuition, or who has been awarded a certificate of proficiency pursuant to Section 48412 of the Education Code, may be employed for the same hours as an adult may be employed in performing the same work.

(b) Notwithstanding the provisions of the orders of the Industrial Welfare Commission, no employer shall pay any minor described in this section in his employ at wage rates less than the rates paid to adult employees in the same establishment for the same quantity and quality of the same classification of work; provided, however, that nothing herein shall prohibit a variation of rates of pay for such minors and adult employees engaged in the same classification of work based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or other reasonable differentiation, when exercised in good faith.

CHAPTER 766

An act to amend Sections 20104, 21101, 21153, 21156, 21222.1, 21222.2, and 21263.3 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 20104 of the Government Code is amended to read:

20104. The board shall maintain its office in the City of Sacramento. A quorum of the board is six members. The board shall elect a president from its membership.

SEC. 1.5. Section 21101 of the Government Code is amended to read:

21101. The board may reinstate a person from retirement upon (a) his application to the board for reinstatement; (b) the determination of the board, based upon medical examination, that he is not incapacitated for the duties to be assigned to him; and (c) the determination of the board that his age at the date of application for reinstatement is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him. The effective date of such reinstatement for purposes of this article shall be the first day of compensated employment following approval of reinstatement.

SEC. 2. Section 21153 of the Government Code is amended to read:

21153. A retired person, other than a dentist or doctor eligible for employment under Section 21156, may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or any other employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing specialized work of limited duration. Such appointments shall not exceed a total for all employers of 90 working days in any calendar year, and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

SEC. 3. Section 21156 of the Government Code is amended to read:

21156. A state agency and a contracting agency may employ a person receiving a retirement allowance under this system who has not attained age 70 and who possesses the legal requirements for the practice of medicine or dentistry in California as determined by the Board of Medical Examiners or the Board of Dental Examiners to render essential medical or dental services and shall pay for such services at a rate not less than the minimum, nor more than the maximum paid to other employees performing comparable duties.

Any person who renders such services shall not be deemed to be an employee of the agency for the purposes of the Public Employees' Retirement Law, nor shall he acquire any additional retirement rights or benefits thereunder because of such employment.

The monthly amount of such person's pension for any calendar month shall be reduced by the amount of compensation paid to him for any service which exceeds 90 working days for all employers in any calendar year, so rendered during said month, but such compensation shall not reduce the amount of such pension for any

month or for any period other than the calendar month during which the services in excess of 90 working days in that calendar year and for which he was compensated were rendered. If the amount of the compensation paid for the service in excess of 90 working days in any year shall exceed the amount of the monthly pension accrued for such month, no pension for such month shall be payable. The agency employing the person shall furnish to the board all information necessary to carry out the provisions of this section. The board promptly after receiving notification of any payment of compensation by a state agency or a contracting agency shall adjust the pension payments accordingly, and if necessary shall require repayment of any overpayments of pension.

This section shall be effective notwithstanding the provisions of Section 21150 of this code or any other provision of law.

SEC. 4. Section 21222.1 of the Government Code is amended to read:

21222.1. In addition to the increase of allowance authorized by and granted pursuant to the provisions of Section 21222 and notwithstanding the limitation in subdivision (b) of Section 21224, the monthly allowance paid with respect to a person retired or a member who died on or before December 31, 1970, shall be adjusted by a 5-percent increase.

The percentage shall be applied to the allowance payable on the operative date of this section or in the case of a contracting agency on the date this section becomes applicable to the contracting agency, and the increased allowance shall be paid for time on and after that date and until the first day of April immediately following the date of such application. The base allowance shall be adjusted by the same percentage effective with that annual adjustment.

This section shall not apply to any contracting agency or its employees, unless and until the agency elects to be subject to the provisions of this section by amendments to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after the date this section takes effect by express provisions in such contract making the contracting agency subject to the provisions of this section. Such amendment shall not be effective unless made on or before December 31, 1978.

SEC. 5. Section 21222.2 of the Government Code is amended to read:

21222.2. In addition to the increase of allowance authorized by and granted pursuant to the provisions of Section 21222 and notwithstanding the limitation in subdivision (b) of Section 21224, the monthly allowance paid with respect to a person retired or a member who died during the period of January 1, 1971, to June 30, 1971, inclusive, shall be adjusted by a 5-percent increase.

The percentage shall be applied to the allowance payable on the operative date of this section or in the case of a contracting agency on the date this section becomes applicable to the contracting

agency, and the increased allowance shall be paid for time on and after that date and until the first day of April immediately following the date of such application. The base allowance shall be adjusted by the same percentage effective with that annual adjustment.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after the time this article takes effect, by express provision in such contract making the contracting agency subject to the provisions of this section. Such amendment shall not be effective unless made on or before December 31, 1978.

SEC. 6. Section 21263.3 of the Government Code is amended to read:

21263.3. The allowance provided by Section 21263 shall be paid with respect to a local miscellaneous or local safety member whose retirement was effective prior to his employer's election to be subject to such section with respect to employees in his employment if at retirement he did not elect optional settlement two or three or an optional settlement involving life contingency under optional settlement four. The retirement allowance payable to such a retired member who elected any such optional settlement shall be increased by 15 percent, for time on and after such operative date and prior to the next annual adjustment under Article 1.5 (commencing with Section 21220) and the base allowance shall be increased by 15 percent for purpose of that and all subsequent annual adjustments. The amount payable to the beneficiary under such optional settlement shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

SEC. 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

CHAPTER 767

An act to amend Section 2014 of the Fish and Game Code, relating to fish and game.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 2014 of the Fish and Game Code is amended to read:

2014. (a) It is the policy of this state to conserve its natural resources and to prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or amphibia.

The state may recover damages in a civil action against any person or local agency which unlawfully or negligently takes or destroys any bird, mammal, fish, reptile, or amphibian protected by the laws of this state.

(b) The measure of damages is the amount which will compensate for all the detriment proximately caused by the destruction of such birds, mammals, fish, reptiles, or amphibia.

(c) An action to recover damages under this section shall be brought in the name of the people of the state, in a court of competent jurisdiction in the county in which the cause of action arose; provided, however, that the State Water Resources Control Board shall be notified of, and may join in any action brought under this section when the activities alleged to have caused the destruction of any bird, mammal, fish, reptile, or amphibian may involve either the unlawful discharge of pollutants into the waters of the state or other violation of Division 7 (commencing with Section 13000) of the Water Code.

(d) This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops as provided by law.

(e) No damages may be recovered against a local agency pursuant to this section if civil penalties are assessed against the local agency for the same detriment pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(f) For purposes of this section, "local agency" includes any city, county, city and county, district, public authority, or other political subdivision.

CHAPTER 768

An act to amend Section 81844 of the Education Code, relating to community colleges.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 81844 of the Education Code is amended to read:

81844. A community college district may begin work on, or receive or award bids for, any portion of an approved project prior to the appropriation by the Legislature of the state's share of the funding thereof pursuant to Section 81841, if such district has demonstrated both of the following facts to the satisfaction of the Board of Governors of the California Community Colleges and the Department of Finance:

(a) The capital construction program of the district and the construction dates contained therein support the need of the district to begin work on, or award bids for, the project before the appropriation is made.

(b) The district has the financial capability to complete the work begun before the appropriation is made in the event the Legislature fails to appropriate the necessary state funding.

For the purposes of this section, an "approved project" is a project which has been approved by the chancellor pursuant to Section 81838, and approved by the Department of Finance pursuant to Section 81841 after April 1, 1971.

CHAPTER 769

An act to add and repeal Section 25278 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 25278 is added to the Vehicle Code, to read:

25278. (a) The City of Los Angeles may require, by ordinance, ice cream trucks, while actually engaged in vending ice cream products on a street in a residence district, to display flashing amber warning lamps to the front and rear and to activate a caution arm only when parked for the purpose of vending such products on a street in a residence district within the city. As used in this section, "parked" means parked in accordance with the requirements of Chapter 9 (commencing with Section 22500) of Division 11. The ordinance shall prohibit the display of such lamps and the activation of such arm in any circumstance not permitted by this section.

(b) If the ordinance authorized by subdivision (a) is adopted, the driver of any vehicle, upon meeting or overtaking from either direction an ice cream truck displaying flashing amber warning lamps and with a caution arm activated within a residence district of the City of Los Angeles, shall immediately slow the vehicle to a speed

of 10 miles per hour, or less, before passing the ice cream truck, and shall yield the right-of-way to any pedestrian in the immediate vicinity of the truck, and may proceed past the truck only with caution.

(c) Any ice cream truck that is subject to the ordinance authorized by subdivision (a) may be operated outside the City of Los Angeles without removing the lamps or caution arm if neither the lamps nor caution arm is used when the truck is so operated.

(d) The City of Los Angeles may include in the ordinance such other provisions as may be necessary to reduce injuries to children in the vicinity of ice cream trucks.

(e) The City of Los Angeles, or any public or private agency or person it designates, shall conduct an evaluation of the implementation of this section and shall report its findings to the Governor and the Legislature regarding the desirability of implementing statewide the requirements imposed pursuant to this section.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is enacted before January 1, 1980, deletes or extends such date.

SEC. 2. The Legislature hereby finds and declares that the local and special statute added by Section 1 of this act is necessary because no general statute, within the meaning of Section 16 of Article IV of the California Constitution, can be made applicable to the circumstances to which Section 1 of this act pertains for the following reason:

Inasmuch as certain persons and entities in the City of Los Angeles have already collected data regarding hazards to children occasioned by ice cream trucks while stopped on highways, those persons and entities are uniquely prepared to evaluate the ordinance authorized by Section 1 of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that this act may achieve its intended results and provide sufficient time for evaluation of the ordinance it authorizes, it is necessary that this act take effect immediately.

CHAPTER 770

An act to amend Sections 12804, 12811, and 21715 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. In establishing the requirements consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant which in the opinion of the department is compensated to insure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any "farm labor truck," any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any two-axle vehicle, any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000

pounds gross, except a bus, two-wheel motorcycle, motor-driven cycle, or "farm labor truck."

(4) Class 4. Any two-wheel motorcycle, any motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 drivers' licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of such vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed. A person holding a valid class 1 or class 2 driver's license on May 3, 1972, may operate class 1 or class 2 vehicles without a medical certificate until such time as the license expires.

(d) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when such certificate is issued by an employer of the applicant provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

(e) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when such certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties provided the applicant has also met the other examination requirements for the license for which he is applying.

(f) Notwithstanding the provisions of subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on such license.

SEC. 1.5. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive,

except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. In establishing the requirements consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant which in the opinion of the department is compensated to insure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any "farm labor truck," any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any two-axle vehicle, any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross, except a bus, two-wheel motorcycle, two-wheel motor-driven cycle, or "farm labor truck."

(4) Class 4. Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 drivers' licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of such vehicle, otherwise the license shall be valid only for operating class

3 vehicles and class 4 vehicles if so endorsed. A person holding a valid class 1 or class 2 driver's license on May 3, 1972, may operate class 1 or class 2 vehicles without a medical certificate until such time as the license expires.

(d) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when such certificate is issued by an employer of the applicant provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

(e) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when such certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties provided the applicant has also met the other examination requirements for the license for which he is applying.

(f) Notwithstanding the provisions of subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on such license.

SEC. 2. Section 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age, and residence address of the licensee, a brief description and photograph of the licensee for the purpose of identification and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

The department shall use such process or processes in the issuance of licenses in color, that prohibit as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a photograph on such license without ready detection.

(b) With every driver's license issued on and after July 1, 1976, the department shall provide a sticker which may be affixed to the back of the license, by which the licensee may indicate his willingness and intent to make an anatomical gift pursuant to the provisions of subdivision (b) of Section 7154 of the Health and Safety Code. The sticker provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act, Chapter 3.5 (commencing with Section 7150), Part 1, Division 7, Health and Safety Code. To be effective, the statement shall be signed by the licensee in the presence of two witnesses, who shall sign the statement in his presence. If the licensee cannot sign, the statement

may be signed for him at his direction and in his presence in the presence of two witnesses who shall sign the statement in his presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee shall be liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the sticker provided pursuant to subdivision (b).

SEC. 3. Section 21715 of the Vehicle Code is amended to read:

21715. (a) No passenger vehicle regardless of weight, or any other motor vehicle under 4,000 pounds unladen, shall draw or tow more than one vehicle in combination, except that an auxiliary dolly may be used with the towed vehicle.

(b) No motor vehicle under 4,000 pounds unladen shall tow any vehicle weighing 6,000 pounds or more gross.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 657 are both chaptered and become effective January 1, 1978, both bills amend Section 12804 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 657, that the amendments to Section 12804 proposed by both bills be given effect and incorporated in Section 12804 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 657 are both chaptered and become effective January 1, 1978, both amend Section 12804, and this bill is chaptered after Assembly Bill No. 657, in which case Section 1 of this act shall not become operative.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant, identifiable cost changes.

CHAPTER 771

An act to amend Sections 11470, 11491.7, 11492, and 11493 of, and to add Section 11499 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, or a vehicle which may be lawfully driven upon the highway with a class 3 or class 4 license, as prescribed in Section 12804 of the Vehicle Code, used, in direct relation to the particular offense for which the owner or defendant is arrested and convicted, to unlawfully transport for sale any controlled substance.

SEC. 2. Section 11491.7 of the Health and Safety Code is amended to read:

11491.7. At the hearing, the state shall have the burden of establishing beyond a reasonable doubt that the owner of the vehicle, boat, or airplane, or the owner of an interest in such vehicle, boat, or airplane, consented to the use of such vehicle, boat, or airplane with the knowledge that it would be used for a violation of this chapter.

SEC. 3. Section 11492 of the Health and Safety Code is amended to read:

11492. No legal or registered title or interest in the vehicle, boat, or airplane shall be affected by the forfeiture decree under this article unless the state has proved that the owner of such interest consented to the use of such vehicle, boat, or airplane with knowledge that it was used for the purpose charged. No forfeiture shall be ordered unless and until a conviction is had for an offense set forth in Section 11490.

SEC. 4. Section 11493 of the Health and Safety Code is amended to read:

11493. The forfeiture hearing may be continued until after a verdict of guilt on the related charges has been decided. The forfeiture hearing shall be conducted in accordance with Sections 600 to 630, inclusive, of the Code of Civil Procedure if a trial by jury, and by Sections 631 to 636, inclusive, of the Code of Civil Procedure if by court. Unless the court or jury finds that the vehicle, boat, or airplane was used in violation of this chapter, the court shall order the vehicle, boat, or airplane released to the person entitled thereto.

If the court or jury finds that the vehicle, boat, or airplane was used

in violation of this chapter, but does not find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired his interest with actual knowledge that the vehicle, boat, or airplane was to be used for a purpose for which forfeiture is permitted, and if the amount due him is equal to, or in excess of, the appraised value of the vehicle, boat, or airplane, the court shall order the vehicle, boat, or airplane released to him. If the amount due him is less than the appraised value of the vehicle, boat, or airplane, he may pay to the Department of General Services the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon such payment, the state shall relinquish all claims to the vehicle, boat, or airplane. If the holder of the interest elects not to make such payment to the Department of General Services, the vehicle, boat, or airplane shall be deemed forfeited to the Department of General Services and the ownership certificate shall be forwarded. Appraised value is to be determined as of the date judgment is entered on a wholesale basis either by agreement between the legal owner and the Department of General Services, or if such persons cannot agree, then by the inheritance tax appraiser for the county in which the action is brought.

SEC. 5. Section 11499 is added to the Health and Safety Code, to read:

11499. Nothing in this chapter shall be construed to extend or change decisional law as it relates to the topic of search and seizure.

CHAPTER 772

An act to amend Section 4602 of the Civil Code, relating to minors.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 4602 of the Civil Code is amended to read:

4602. In any proceeding under this part, when so directed by the court, the probation officer or domestic relations investigator shall conduct a custody investigation and file a written confidential report thereon. The report may be considered by the court and shall be made available only to the parties or their attorneys at least 10 days before any hearing regarding the custody of a child. The report may be received in evidence upon stipulation of all interested parties.

When the probation officer or domestic relations investigator is directed by the court to conduct a custody investigation, the court shall make inquiry into the financial condition of the parent, parents,

guardian, or such other person charged with the support and maintenance of such minor, and if the court finds such parent, parents, guardian, or other person able, in whole or in part, to pay the expense of such investigation, report and recommendation, the court shall make an order requiring such person, persons, guardian, or other person to repay to the county such part, or all, of such expense of investigation, report and recommendation as, in the opinion of the court, is proper. Such repayment shall be made to the county officer designated by the board of supervisors, who shall keep suitable accounts of such expenses and repayments and shall deposit such collections in the county treasury.

CHAPTER 773

An act to add Chapter 5.9 (commencing with Section 25487) to Division 15 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Chapter 5.9 (commencing with Section 25487) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.9. ENERGY SYSTEMS

Article 1. Definitions

25487. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

25488. "Title 24 Standards" refers to the nonresidential building standards developed by the commission.

25489. "Lifecycle cost" means an estimate of the total cost of acquisition, operation, maintenance, and construction of any energy system within or related to a structure over the design life of the structure. "Life cycle cost" includes, but is not limited to, the cost of fuel, materials, machinery, ancillary devices, labor, service, replacement, and repairs.

25491. "Governmental agency" means any public agency, including any agency of the state, each county, city, district, association of governments, and joint power agency.

25492. "Structure" means any building which has more than 10,000 square feet of floor area and which has a heating, cooling, water heating, or lighting system which is designed to provide lighting and space conditioning more than 1,000 hours per year.

25493. On or after January 1, 1979, no governmental agency shall

commence construction on any new structure unless the new structure complies with Title 24 Standards.

25494. Not later than July 31, 1978, the commission shall prepare a manual outlining a methodology by which governmental agencies and the general public may at their option compare the lifecycle costs of various building design alternatives. This manual will provide the information and procedures necessary to evaluate a building's lifecycle costs in the microclimate and utility service area where it is to be built.

25495. No later than July 31, 1978, the commission shall develop design guidelines for new construction which include energy conserving options, including, but not limited to, the use of daylighting, heating ventilation and air conditioning economizer cycles, natural ventilation, building envelope solar heat gain control mechanisms, and alternative energy systems such as solar energy for space heating and water heating and load management strategies. These guidelines and the cost analysis done pursuant to Section 25494 may be considered by government agencies at their option for ultimate selection of a building design in the competitive bidding process.

25496. No later than July 1, 1978, the commission shall develop and make available to government agencies and the general public to be utilized at their option lighting standards for existing buildings. These standards shall address, but not be limited to, task and general area lighting levels, light switching and control mechanisms, and lighting energy budgets. The commission may provide advice and recommendations to the public or any governmental agency as to the standards.

25498. In addition to any other requirements applicable to such structure, no new state-owned structure shall be constructed which is not equipped with a supplementary solar water heating system, unless such structure is specifically exempted from this requirement by the State Architect for reasons of economic or physical infeasibility.

SEC. 2. The State Energy Resources Conservation and Development Commission shall provide not to exceed forty thousand dollars ($40,000), from the funds appropriated for the support of the commission for the 1977–78 fiscal year, for purpose of conducting the Helio Science Institute Energy Conference and Exhibit, dealing with the use of solar, wind, and geothermal energy, to be held in January 1978, at Palm Springs, California.

SEC. 3. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of Revenue and Taxation Code because the only duty, obligation, and responsibility imposed on local government is the duty to conform to building standards that have been found to reduce the life cycle costs of buildings.

SEC. 4. the Legislature finds and declares that the provisions of Section 25493 of the Public Resources Code, as added by Section 1 of this act, does not constitute a change in but is declaratory of, the

existing law.

CHAPTER 774

An act to amend Section 16120 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. (a) The adoption fees may be waived for all adoptive parents as necessary to provide adoptive families for hard-to-place children.

(b) There may be paid for a period not to exceed five years an amount of financial assistance not more than the amount that would be paid for foster care for the child if the placement for adoption had not taken place. Any substantial change in financial circumstances or need shall be reported by a parent to the licensed adoption agency or department in accordance with regulations adopted by the department. The Director of Finance is authorized to transfer funds to a special account for use by the department to provide the in-lieu foster care payments provided by this section. Such transfer of funds shall not exceed in any month 67.5 percent of the product of one hundred twenty dollars ($120) multiplied by the number of children receiving payments provided by this section. The remaining cost of in-lieu foster care payments to adoption parents is the county share and shall be paid from county funds. The county responsible for the care of the child in a foster home is responsible for the payment provided for by this section in adoptive placements arranged by the department or any licensed adoption agency and in cases in which a child receiving aid to families with dependent children in a foster home is adopted by his foster parents and the department or designated adoption agency joins in the petition for adoption.

(c) Prior to the end of the initial period prescribed in subdivision (b), if there is a continuing need, related to a chronic health condition of the child which necessitated the initial financial assistance, a parent may petition the department or the designated licensed adoption agency to continue financial assistance. The amount of financial assistance and the time period for which it may be given, shall be determined by the department or the agency but shall not exceed the age of majority of the child. Prior to the expiration of the extension period, if there is a continuing need, a parent may repetition the department or the designated licensed adoption agency for a new period of termination. The department

or the agency shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child, related to the child's physical condition at the time of adoption, taking into consideration community resources.

CHAPTER 775

An act to amend Sections 32002, 32100.2, 32110, 32127, 32130, 32150, 32153, and 32155 of, to add Section 32130.1 to, and to repeal Sections 32108, 32109, and 32152 of, the Health and Safety Code, relating to hospital districts.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 32002 of the Health and Safety Code is amended to read:

32002. The manner of formation of local hospital districts, and the conducting of elections, unless otherwise provided herein shall be as in the manner provided, respectively, by Chapter 1 (commencing with Section 58000) of Division 2 of Title 6 of the Government Code and Part 3 (commencing with Section 23500) of Division 12 of the Elections Code. Except as provided in this chapter, all of the provisions of such chapter and part are hereby incorporated in this division by reference and shall have the same effect and force as if fully set forth herein. In addition to all other requirements regarding formation of hospital districts, no hearing upon the petition to form a hospital district shall be held until there shall have been filed with the supervising authority a certificate of need issued by the state department pursuant to Part 1.5 (commencing with Section 437) of Division 1.

SEC. 2. Section 32100.2 of the Health and Safety Code is amended to read:

32100.2. Notwithstanding any other provision of law, the term of any member of the board of directors shall expire if he is absent from six consecutive regular meetings, or from five or more of any eight consecutive meetings of the board and the board by resolution declares that a vacancy exists on the board.

SEC. 3. Section 32108 of the Health and Safety Code is repealed.

SEC. 4. Section 32109 of the Health and Safety Code is repealed.

SEC. 5. Section 32110 of the Health and Safety Code is amended to read:

32110. No person possessing any property interest in, or owning any of the stocks, bonds, or other securities issued by, any private hospital serving the same area served by the district, or who is a director or other officer of any such private hospital, shall be eligible

for or hold any district office, either as a member of the board, or an officer of the medical staff. No person who is a director or an officer of, or who occupies any management position or office whatsoever, on the administrative staff of any such private hospital, shall be eligible for or hold any district office or any management position or office whatsoever in any district hospital. The possession or ownership of such interest, stocks, bonds, or other securities by the spouse or minor children of any person shall be deemed, for the purposes of this section, to be the possession or interest of such person.

The amendments to this section enacted at the 1970 Regular Session of the Legislature do not apply to any person who is a member of the board of directors of a local hospital district on the effective date of such amendments, except in respect to his eligibility for, or his holding of membership on, any such board of directors for any term subsequent to that which he is serving on such date.

SEC. 6. Section 32127 of the Health and Safety Code is amended to read:

32127. The hospital district shall establish its own treasury and shall appoint a treasurer charged with the safekeeping and disbursal of the funds in the treasury of the district. The board of directors shall fix the amount of the bond to be given by such treasurer and shall provide for the payment of the premium therefor out of the maintenance and operation fund.

All moneys derived from that portion, if any, of the annual tax or assessment levied for capital outlay purposes shall be placed in the capital outlay fund. Any moneys derived from a special tax or assessment levied under Article 3 of Chapter 3 hereof shall be placed in a special assessment fund and shall be used exclusively for the purposes for which such special tax or assessment was voted.

All moneys derived from the regular annual tax or assessment provided in Article 1, Chapter 3 hereof, except any part thereof levied for capital outlay purposes, shall be placed in the maintenance and operation fund. All receipts and revenues of any kind from the operation of the hospital shall be paid daily into the treasury of said district and placed in the maintenance and operation fund. Moneys in the maintenance and operation fund may be expended for any of the purposes of the district; provided, however, that no such moneys may be expended for new construction of additional patient bed capacity other than as authorized by Section 32221 hereof. Whenever it appears that the sum in the bond interest and sinking fund will be insufficient to pay the interest or principal of bonds next coming due and payable therefrom, a sum sufficient to pay such principal and interest shall be transferred by the board of directors from the maintenance and operation fund to said bond interest and sinking fund.

Except as to principal and interest of bonds, moneys in the treasury of the district shall be paid out by the treasurer, or such other officer or officers of the district, including the administrator, as may be

authorized by the board. The treasurer shall keep such order as his voucher and shall keep accounts of all receipts into the district treasury and all disbursements therefrom.

Where bonds of the district are payable at the office of the district, all receipts from taxes levied to pay the principal and interest of such bonds shall be paid into the treasury of the district, and the treasurer of the district shall pay therefrom the principal and interest of such bonds.

Where bonds of the district are payable at the office of the county treasurer of the organizing county, at the option of the holder, or otherwise, all receipts from taxes levied to pay principal and interest of such bonds shall be paid into the treasury of the organizing county and shall be placed by the county treasurer in the bond interest and sinking fund of the district, and he shall pay the principal and interest of such bonds therefrom and shall keep an account of all moneys received into and paid out of said fund.

Any moneys in the treasury of the district and any moneys of the district in the bond interest and sinking fund of the district in the treasury of the organizing county may be deposited in accordance with the provisions of the general laws of the State of California governing the deposit of public moneys of cities or counties in such bank or banks in the State of California as may be authorized to receive deposits of public funds, in the same manner and upon the same security as public moneys of cities and counties are deposited in such banks, and with like force and effect. The board of directors of the district are authorized to create a revolving fund which fund shall not exceed the sum of 10 percent of the estimated annual expenditures of the district at any one time and which shall be used for the purpose of paying the interim expenses of the operation of any hospital within the district without the necessity of a written order signed by the president and countersigned by the secretary as provided herein. The treasurer is authorized to deposit said fund in such bank or banks in the county as may be authorized to receive deposits of public funds in the same manner and upon the same security as public moneys of cities and counties are deposited in such banks and with like force and effect, and shall be subject to withdrawal upon the signature of the treasurer, or such other official of the district as may be authorized by the board of directors, for the use and purpose provided for herein.

SEC. 7. Section 32130 of the Health and Safety Code is amended to read:

32130. A district may borrow money and incur indebtedness in an amount not to exceed 50 percent of all estimated income and revenue for the current fiscal year, including, but not limited to, tax revenues, operating income, and any other miscellaneous income received by the district, from whatever source derived. A district may execute promissory notes or other evidences of indebtedness as may be required.

SEC. 8. Section 32130.1 is added to the Health and Safety Code, to

read:

32130.1. A district is also authorized, when funds shall be needed to meet current expenses of maintenance and operation, to borrow money on certificates of indebtedness or other evidence of indebtedness in an amount not to exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation of the district, such certificates of indebtedness to run for a period not to exceed five years and to bear interest not to exceed 8 percent per annum.

All such certificates of indebtedness or other evidence of indebtedness shall be issued after the adoption by a three-fifths vote of the board of directors of the district of a resolution setting forth the necessity for such borrowing and the amount of the assessed valuation of the district and the amount of funds to be borrowed thereon. All such certificates of indebtedness or other evidence of indebtedness shall be offered at public sale by the board of directors of the district after not less than 10 days advertising in a newspaper of general circulation within the district and if no newspaper of general circulation is printed within the district, then in a newspaper of general circulation within the county in which the district is located. Each such sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the district; provided, however, that the rate of interest shall not exceed 8 percent per annum.

Such certificates of indebtedness or other evidences of indebtedness shall be signed on behalf of the district by the presiding officer and attested by the secretary of the board of directors of the district. The board of supervisors of the county in which the district lies shall, at the time of fixing the general tax levy, sometimes called the annual assessment or regular annual assessment for such district, and in the manner for such general tax levy provided, levy and collect annually each year until such certificates of indebtedness or other evidences of indebtedness are paid or until there shall be a sum in the treasury set apart for that purpose sufficient to meet all sums coming due for principal and interest on such certificates of indebtedness or other evidences of indebtedness, tax sufficient to pay the interest on such certificate of indebtedness as the same becomes due and also, to constitute a sinking fund for the payment of the principal thereof at maturity. The tax shall be in addition to all of the taxes levied for district purposes and shall be placed in a certificate of indebtedness, interest and sinking fund of the district and, until all of the principal of the interest and certificates of indebtedness is paid, the money in such fund shall be used for no other purpose than the payment of such certificates of indebtedness and accruing interest thereon.

Notwithstanding any limitation as to the amount, nature or purpose of any indebtedness or other obligations referred to in this section, a district may also incur obligations and indebtedness pursuant to and make all rental, purchase, and other payments provided for in any agreement entered into by it pursuant to Section

32135.

SEC. 9. Section 32150 of the Health and Safety Code is amended to read:

32150. The board of directors shall adopt reasonable rules and regulations, or bylaws, providing for appellate review of any action, decision, or recommendation of the medical staff affecting the professional privileges of any member of, or applicant for membership on, the medical staff. Such appellate review may be conducted by the board or by a hearing officer designated by the board. The board's decision rendered after such appellate review shall be final.

SEC. 10. Section 32152 of the Health and Safety Code is repealed.

SEC. 11. Section 32153 of the Health and Safety Code is amended to read:

32153. Any hearing officer designated by the board shall be an attorney admitted to practice law in this state for at least 10 years prior to the hearing. If a hearing officer is appointed, he shall conduct the hearing and shall make recommended findings, conclusions and a decision which may be adopted, modified, or rejected by the board of directors.

SEC. 12. Section 32155 of the Health and Safety Code is amended to read:

32155. The board of directors may order that the hearing pursuant to this article, and hearings on the reports of the hospital medical audit committees, be held in private or executive session, provided, that an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing. Deliberations of the board of directors in connection with matters pertaining to this section may be held in executive session.

CHAPTER 776

An act to amend Section 48916 of the Education Code, relating to pupils.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 48916 of the Education Code is amended to read:

48916. Students of the public schools shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not such publications or other means of expression are supported financially

by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

Each governing board of a school district and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

Student editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section. However, it shall be the responsibility of a journalism adviser or advisers of student publications within each school to supervise the production of the student staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section. School officials shall have the burden of showing justification without undue delay prior to any limitation of student expression under this section.

"Official school publications" shall refer to material produced by students in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

Nothing in this section shall prohibit or prevent any governing board of a school district to adopt otherwise valid rules and regulations relating to oral communication by students upon the premises of each school.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 777

An act to amend Sections 2982.8 and 2983.2 of, to add Section 2983.2 to, and to repeal Section 2983.2 of, the Civil Code, relating to automobile sales, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be added to the contract balance. Such amounts shall be secured by the motor vehicle provided that the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract.

(4) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to either paragraph (2) or (3) of this subdivision.

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

(c) The maximum finance charge which may be imposed on amounts advanced by the holder hereunder shall not exceed the rate specified in subdivision (c) of Section 2982.

SEC. 2. Section 2983.2 of the Civil Code is amended to read:

2983.2. (a) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, at least 10 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. Except as otherwise provided in Section 2983.8, such persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that such persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 10 days from the date of giving or mailing the notice and provides an itemization of the contract

balance and of any delinquency, collection or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 10 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The seller or holder shall provide the proper form for applying for such extensions with the substance of such form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the seller or holder and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to such persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 10 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 10 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice extend the period accordingly.

(7) Informs such persons that upon written request, the seller or holder shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that such request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE."

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if such request is made within one year after the

disposition, a written accounting regarding the disposition. Such accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the seller or holder, the holder of a subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(c) In all sales which result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Such surplus shall be returned to the buyer within 45 days after the sale is conducted.

(d) This section shall remain in effect only until January 1, 1978, and as of that date is repealed.

SEC. 3. Section 2983.2 is added to the Civil Code, to read:

2983.2. (a) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. Except as otherwise provided in Section 2983.8, such persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that such persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 15 days from the date of giving or mailing the notice and provides an itemization of the contract balance and of any delinquency, collection or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled

to the conditional right of reinstatement, both the redemption and reinstatement periods. The seller or holder shall provide the proper form for applying for such extensions with the substance of such form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the seller or holder and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to such persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice extend the period accordingly.

(7) Informs such persons that upon written request, the seller or holder shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that such request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE."

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if such request is made within one year after the disposition, a written accounting regarding the disposition. Such accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is

completed. If requested by the seller or holder, the holder of a subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(c) In all sales which result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Such surplus shall be returned to the buyer within 45 days after the sale is conducted.

(d) This section shall become operative on January 1, 1978.

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

In order to clarify the law so that buyers and sellers entering into conditional sale contracts involving motor vehicles may do so with certainty as to the construction of Chapter 1265 of the Statutes of 1976, it is necessary that this act take effect immediately.

CHAPTER 778

An act to amend Section 12024.2 of the Business and Professions Code, relating to weights and measures, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 12024.2 of the Business and Professions Code is amended to read:

12024.2. (a) It shall be unlawful for any person to compute at the time of sale of a commodity a value which is not a true extension of a price per unit which at that time is advertised, posted or quoted.

A violation of this subdivision shall constitute a misdemeanor, punishable by a fine of not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) or by imprisonment in the county jail for a period not exceeding one year or by both, if the violation is intentional or grossly negligent, or when the difference between the value actually computed and the total true value of the commodity offered for sale (pursuant to the advertised, posted or quoted price per unit) is more than one dollar ($1) greater than the total true value of the commodity offered for sale, or if the defendant has been convicted of two or more violations of this section within the 24-month period immediately preceding the third offense and such prior convictions are admitted by defendant or alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.

(b) A violation of this section shall constitute an infraction when the difference between the value actually computed and the total true value of the commodity offered for sale (pursuant to the advertised, posted or quoted price per unit) is not more than one dollar ($1) greater than the total true value of the commodity offered for sale. Such violation shall be punishable by a fine of not more than fifty dollars ($50) for a first offense within the 24-month period immediately preceding the commission of the offense and a fine of not more than one hundred dollars ($100) for a second offense within the 24-month period immediately preceding the commission of the offense.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to prevent the inequitable punishment of grocery store employees it is necessary that this bill go into immediate effect.

CHAPTER 779

An act to add Section 2460.5 to the Streets and Highways Code, relating to grade separation projects.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 2460.5 is added to the Streets and Highways Code, to read:

2460.5. From funds remaining after allocations for projects higher on the priority list, the commission shall offer to allocate the remaining funds for the next eligible project on the priority list, even though the amount of the remaining funds is less than the amount the local agency is entitled to for that project.

If the amount allocated to the local agency in such a case is less than 90 percent of the amount that would have been allocated to it if sufficient funds had been available, the commission, in the next fiscal year, shall allocate to the local agency an additional amount equal to the difference between that 90 percent of such amount and the amount of the reduced allocation.

The total of the amount of allocations for a single project, including, but not limited to, any allocation pursuant to this section, shall not exceed the amount prescribed by subdivision (g) of Section 2454 without specific legislative authorization.

CHAPTER 780

An act to amend Section 706 of, and to add Section 10010.1 to, the Elections Code, relating to elections.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 706 of the Elections Code is amended to read:

706. Within 45 days of the day of the direct primary or statewide general election, the clerk shall cancel the original and duplicate affidavits of registration for each voter who failed to vote at the previous direct primary or previous statewide general election, whichever is later, and for whom he receives an address correction requested or any other postal notice which indicates that the voter no longer resides within the county or has moved and left no forwarding address. If such a notice indicates the voter has moved within the county, the clerk shall notify the voter that the voter's affidavit of registration shall be corrected accordingly, unless the clerk is notified by the voter within 30 days after mailing of such notice that the voter's proper domicile for voting purposes is the address contained in the voter's affidavit of registration or is another address located within the county.

If such notice indicates the voter has moved outside the county, the clerk shall notify the voter that the voter's affidavit of registration shall be canceled unless the clerk is notified by the voter within 30 days after mailing of such notice that the voter desires to use the old or another address within the county. Within 15 days after the day of the direct primary or statewide general election, the clerk shall mail the notices required by this section.

The notice sent by the clerk to the voter shall be a double postcard and the return notice to the clerk shall be prepaid. The notice shall be uniform in all counties, according to regulations promulgated by the Secretary of State.

If a voter who has moved within the county wishes his registration affidavit changed to the new address within the county as indicated by the post office he need not return the notice card to the clerk.

SEC. 2. Section 10010.1 is added to the Elections Code, to read:

10010.1. When mailing sample ballots for the general election pursuant to Section 10010, the county clerk shall include the return address of the county clerks office and shall affix to the outside portion of the envelope the following statement: "Address Correction Requested".

With the approval of the county board of supervisors, the procedure set forth in this section and Section 706 may be used at any local election.

SEC. 3. There are no state-mandated local costs in this act which require reimbursement under Section 2231 of the Revenue and Taxation Code in the 1977–1978 fiscal year. However, there are state-mandated local costs in this act in 1978–79 fiscal year and subsequent fiscal years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular state budget process.

CHAPTER 781

An act to amend Sections 74010, 74011, and 74014 of the Education Code, relating to community colleges.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 74010 of the Education Code is amended to read:

74010. The Legislature hereby declares as its policy that all of the territory of the state shall be included in community college districts, except that of counties the residents of which account for fewer than 350 units of average daily attendance in community colleges in the state in the preceding fiscal year. However, the territory of such counties may be included in community college districts pursuant to procedures prescribed by law.

For purposes of this section and Section 74011, references to "counties" in the case of Modoc County and Sierra County shall be deemed to refer to all of the community college district territory under the jurisdiction of the county superintendents of schools of those counties, and not to the territory precisely included within the boundaries of the counties, where such community college district territory extends into Siskiyou or Plumas County. The remaining provisions of this article shall be construed and applied in accordance with such meaning, where applicable.

SEC. 2. Section 74011 of the Education Code is amended to read:

74011. On or before September 15, 1973, the county committee on school district organization of each county in which the residents account for 350 or more units of average daily attendance in community colleges in the state in the 1972–73 fiscal year shall submit to the Board of Governors of the California Community Colleges approvable plans and recommendations for the inclusion of all of the territory of the county in one or more community college districts or for the annexation to existing community college districts of territory not a part of any community college district. The county committee on school district organization of any other county may submit such plans and recommendations at any time. A single plan

for annexation may contain alternative proposals respecting the community college district or districts to which annexation is proposed.

When, in any fiscal year after the 1972–73 fiscal year, the residents of a county for the first time account for 350 or more units of average daily attendance in community colleges in the state, the county committee on school district organization shall, in the next succeeding fiscal year, submit such plans and recommendations to the board of governors.

Notwithstanding the provision of Section 74300, if the plan prepared by the county committee proposes the annexation of territory to an existing community college district which maintains not more than two community colleges, an agreement to the annexation by the community college board shall not be required.

Plans and recommendations which are not approved by the board of governors shall be returned to the county committee on school district organization for revision and resubmission to the office of the Chancellor of the California Community Colleges.

SEC. 3. Section 74014 of the Education Code is amended to read:

74014. Elections to carry out the proposals of a plan approved by the board of governors shall be called and conducted by the county superintendent of schools of the county in which all or the greater portion of the area is situated at the time the plan is recommended by the county committee and shall be held pursuant to the provisions of Section 4405, but in any event within one year after date of notification of original approval. Alternative annexation proposals contained in a single approved plan shall be submitted to the electors as separate alternative propositions. When alternative annexation propositions are submitted to the electors, that proposition receiving the approval of the majority of qualified electors voting shall be adopted. In the event that more than one annexation proposition receives the approval of the majority of the qualified electors voting, that proposition which receives the greatest number of favorable votes in excess of the majority shall be adopted.

CHAPTER 782

An act to amend Sections 39649 and 81649 of the Education Code, relating to school and community college districts.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 39649 of the Education Code is amended to read:

39649. In each school district, the governing board may make repairs, alterations, additions, or painting or repainting upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, and erect new buildings by day labor, or by force account, whenever the total cost of labor on the job does not exceed three thousand five hundred dollars ($3,500) or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any school district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 federal census, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, by day labor or by force account whenever the total cost of labor on the job does not exceed three thousand dollars ($3,000) or the total number of hours on the job does not exceed 750 hours whichever is greater.

For purposes of this section, day labor shall include the use of maintenance personnel, whether employed on a permanent or temporary basis.

SEC. 2. Section 81649 of the Education Code is amended to read:

81649. In each community college district, the governing board may make repairs, alterations, additions, or painting or repainting upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, and erect new buildings by day labor, or by force account, whenever the total cost of labor on the job does not exceed three thousand five hundred dollars ($3,500) or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any district situated wholly or partly within a city containing a population of over 1,900,000 according to the 1950 federal census, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, by day labor or by force account whenever the total cost of labor on the job does not exceed three thousand dollars ($3,000) or the total number of hours on the job does not exceed 750 hours, whichever is greater.

For purposes of this section, day labor shall include the use of maintenance personnel, whether employed on a permanent or temporary basis.

CHAPTER 783

An act to amend Section 58930 of, and to repeal and add Chapter 2 (commencing with Section 40701) of Division 16 of, the Food and Agricultural Code, relating to marketing of agricultural products, and making an appropriation therefor.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Chapter 2 (commencing with Section 40701) of Division 16 of the Food and Agricultural Code is repealed.

SEC. 2. Chapter 2 (commencing with Section 40701) is added to Division 16 of the Food and Agricultural Code, to read:

CHAPTER 2. STANDARDS FOR TOMATOES FOR CANNING OR DEHYDRATION

Article 1. Definitions

40701. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

40702. "Canning purposes" means the packing of commercially canned tomatoes, the manufacture of tomato paste, tomato puree, tomato pulp, tomato catsup, tomato sauce, tomato juice, and similar manufactured tomato products.

40703. "Committee" means the Canning Tomato Advisory Committee.

Article 2. General Provisions

40731. The standards which are established as authorized by this chapter are the only standards of quality for canning tomatoes that the director shall enforce. Such standards apply, with like force and effect, to tomatoes for dehydration, except as to requirements for comminuted color or as otherwise expressly exempted.

40732. Tomatoes for canning purposes, except hard green tomatoes for use in the manufacture of green tomato products, shall conform to the standards established under this chapter.

Article 3. Regulations

40761. The committee may submit to the director proposed regulations under this chapter. The director may adopt and enforce regulations for the following:

(a) Minimum standards and tolerances, for canning tomatoes which shall be cause for rejection by the director. However, no emergency regulations shall be established which raise or lower such standards and tolerances.

(b) Minimum standards for color of canning tomatoes based on a comminuted raw product sample which shall be cause for rejection by the director. However, no emergency regulations shall be established which tend to raise or lower the comminuted color readings.

(c) Standards for canning tomatoes which shall not be cause for

rejection by the director.

(d) Sampling and inspection procedures for canning tomatoes.

(e) Fees calculated to cover expected costs involved in the department performing the services specified in this chapter and in carrying out the regulations adopted under this chapter.

(f) Sanitation, equipment, inspection stations, and load identification data.

(g) Other such regulations as are reasonably necessary for the administration and enforcement of this chapter.

40762. The minimum standards and tolerances consistent with the provisions of Chapter 2, as repealed by this act and in effect on December 31, 1977, shall be in force until such time as the regulations are established under this chapter.

Article 4. Powers of the Director

40781. The director may, for the purpose of inspection, enter any place where canning tomatoes may be found. The director may take for inspection such samples as may be necessary to determine if any uncertified lot, load, or container of canning tomatoes complies with the standards established pursuant to this chapter. The director may subject such samples to any method of inspection or testing as prescribed by regulation.

40782. The director may cause the prosecution of any person violating any provision of this chapter, and may seize and hold such portion of any lot or load of tomatoes for canning purposes involved in such a violation as may, in his judgment, be necessary as evidence.

Article 5. Inspection and Certification by the Director

40811. The director shall inspect deliveries of tomatoes for canning purposes.

40812. If the director finds that the tomatoes which are being delivered conform with the standards prescribed by regulations, the director shall issue a certificate to that effect.

40813. If the director finds that the tomatoes delivered do not conform with the standards prescribed by regulations, the director shall issue a notice of rejection.

40814. The director is not required to perform inspection at any place where adequate inspection facilities are not provided.

40815. The inspection certificate which is issued pursuant to this chapter is prima facie evidence of the percentage of defects according to the definition of such defects as defined by regulations. The presumption established by this section is a presumption affecting the burden of proof, but it does not apply in a criminal action.

Article 6. Contract Inspection

40871. Loads of tomatoes which are offered for delivery by a grower to a canner in accordance with the terms of a contract between them shall be given such inspection as may be required without undue delay and within a reasonable time after such load arrives at the cannery or other point which is specified for such inspection.

40872. Any load of tomatoes which is so offered for inspection and delivery that is rendered unsuitable for canning purposes as a direct result of unwarranted delay in inspection, willfully or negligently caused or permitted by the canner, shall be paid for by the canner at the full price that is agreed upon for tomatoes suitable for canning purposes and on the basis that such tomatoes were of the grade, quality, and condition which is stipulated in the contract.

If no price is stipulated in the contract, payment shall be made by the canner to the grower on the basis of the then prevailing market price for tomatoes of the grade, quality, and condition which is specified in the contract.

40873. In addition to any other remedy, the grower so offering for inspection and delivery any load of tomatoes that has incurred any added handling costs as a direct result of the unwarranted delay in inspection and delivery, willfully or negligently caused or permitted by a canner, may recover the amount of such added handling costs by an action at law against such canner.

40874. No grower shall have any rights under this article unless he shall register each load of tomatoes with the canner at the time he offers such load for inspection and delivery. Such registration shall be made by obtaining from the canner a certificate, which such canner is, by this provision, required to furnish, that states the time of arrival of the load at the cannery or other specified inspection point.

Article 7. Discrimination by Cannery in Furnishing Raw Product Containers

40901. The failure of a canner willfully and without due cause to furnish raw product containers to a grower as agreed upon, or any willful discrimination against any grower in this regard, shall subject such canner to an action for all damages which are sustained by the grower as a direct result of such failure or discrimination, and judgment against any such canner may be entered in the discretion of the court either for the amount of the damages sustained or for three times such amount. Treble damages may, however, only be awarded if the grower has furnished the canner written notice of the claimed failure or discrimination within 48 hours after the claimed failure or discrimination.

40902. This article does not affect existing remedies for the violation of a contract but is in addition to such existing remedies.

Article 8. Fees

40931. Each canner that receives deliveries of tomatoes for canning purposes is hereby designated as the authorized agent of the director to collect the inspection and certification fees which are chargeable to such canner and to each producer that delivers such tomatoes.

40932. The cost of such inspection and certification shall be borne equally by both the canner and the producer.

40933. Any money which is collected pursuant to the provisions of this article shall be remitted to the director weekly during the tomato canning season for deposit into the Department of Agriculture Fund to be used in carrying out the purposes of this chapter.

40934. Except as otherwise provided in this article, any money which is so collected and not used for the purposes of this chapter shall be returned to the canners from whom it was received for distribution to the canners and producers from whom the money was originally collected, in proportion to their several interests.

40935. If the director determines, as to any such money heretofore or hereafter collected as inspection and certification fees, that the return of the money with respect to any canning season is impracticable because of the smallness of the amounts returnable, or for any other reason, the money so collected shall not be so returned but shall remain in the Department of Agriculture Fund and be available for expenditure for the purposes of this chapter in any subsequent year.

Article 9. Violations

40961. It is unlawful for any person to deliver or to accept tomatoes for canning purposes, or to process any tomatoes, which have not been certified as meeting the requirements of this chapter or the regulations established pursuant to this chapter.

40962. It is unlawful for any person to deliver to a canner or for any canner to accept delivery of any load of tomatoes which has been rejected for failing to comply with the standards established pursuant to this chapter, until such load has been reconditioned to comply with the standards, reinspected, and a certificate issued by the proper enforcing officer.

40963. It is unlawful for any person to remove, deface, or destroy, any warning tag or notice which has been placed by a proper enforcing officer upon a rejected lot or load of tomatoes for canning purposes.

Article 10. Canning Tomato Advisory Committee

41001. There is in the department the Canning Tomato Advisory Committee, which consists of 10 members. The director shall appoint five members who shall be producers of tomatoes for canning and five members who shall be representatives of handlers engaged in the canning of tomatoes.

41002. It is hereby declared, as a matter of legislative determination, that producers of tomatoes for canning and handlers engaged in canning tomatoes appointed to the Canning Tomato Advisory Committee pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

41003. In making selection of the membership of the committee, the director shall take into consideration the recommendations of organizations and associations of producers of tomatoes for canning and of handlers of tomatoes for canning.

41004. The committee member's term of office shall be three years. Any vacancies which occur during an unexpired term shall be filled by appointment for the unexpired term.

41005. The committee shall be advisory to the director on all matters pertaining to standards for tomatoes for canning purposes. The committee may do any of the following:

(a) Recommend to the director administrative regulations which relate to methods and procedures of selecting samples of lots, loads or containers of tomatoes for canning purposes, and to the establishment of color standards and requirements to be established pursuant to this chapter.

(b) Recommend to the director administrative regulations which relate to the administration and enforcement of this chapter.

(c) Recommend to the director the institution and promotion of scientific research.

(d) Recommend to the director the sampling for conditions not currently provided for in this chapter or regulations adopted pursuant to this chapter.

(e) Advise the director on all matters pertaining to this chapter including the annual budget and revenue necessary to accomplish the purpose of this chapter.

41006. The committee shall meet at the call of its chairman or at the request to the director of any three members of the committee. It shall meet at least once each year.

41007. The meetings of the committee shall be held in the office of the department at Sacramento, or elsewhere within the state, if necessary for the proper performance of its duties.

41008. Each member of the committee, any alternate member serving in the absence of a regular member, and any member of an advisory committee appointed by the chairman of the committee, may, with approval of the director, be reimbursed for the actual and necessary expenses incurred in the performance of their official duties, however, they may not receive any other consideration. Any such reimbursements shall be made at the rate permitted under the rules of the State Board of Control.

41009. The director shall appoint an alternate member for each committee member. In making such appointments the director shall appoint a producer as alternate for each producer member and a handler representative as alternate for each handler representative, and shall give consideration to the representative of the member for whom the alternate is designated to serve.

41010. Alternate members shall serve at committee meetings only in the absence of the member for whom they are designated as alternate.

SEC. 2. Section 58930 of the Food and Agricultural Code is amended to read:

58930. If any producer or handler that is duly assessed pursuant to the provisions of this chapter fails to pay to the director the amount so assessed on or before the date which is specified by the director, the director may add to such unpaid assessment an amount not exceeding 10 percent of such unpaid assessment to defray the cost of enforcing the collection of such unpaid assessment. In addition to such payment for the cost of enforcing such collection, any such producer or handler shall pay to the director a penalty of 5 percent for each 30 days of the unpaid balance for each 30 days the assessment is unpaid, prorated over the days unpaid, commencing 30 days after notice has been given to such producer or handler of his failure to pay the assessment on the date required, unless the director determines, to his satisfaction, that such failure to pay is due to reasonable cause beyond the producer's or handler's control. Such penalty shall not exceed 50 percent of the total amount of the assessment due.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 784

An act to add and repeal Section 5011 to the Public Resources Code, relating to the state park system.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 5011 is added to the Public Resources Code, to read:

5011. Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code or any person over 62 years of age whose total monthly income from all sources, including any old age assistance payments, does not exceed two hundred fifty dollars ($250) for a single person or five hundred dollars ($500) combined income for married persons, upon application therefor and payment of three dollars and fifty cents ($3.50) to the Department of Parks and Recreation, shall be issued a "Golden Bear Pass for Senior Citizens" which shall be valid for the period that this section remains in effect and which shall entitle the bearer and spouse to free use of the day-use facilities in units of the state park system, except Hearst San Simeon State Historical Monument, San Francisco Maritime State Historic Park, and Sutter's Fort State Historic Park, under such limitations as may be determined by departmental regulation regarding peak hours and contractual arrangements with vendors. Such pass shall not entitle the bearer and spouse to use such facilities on any Saturday, Sunday, or holiday Such pass shall entitle the bearer and spouse to have access only to day-use facilities and not to the use of any overnight camping or trailer or camper facilities.

This program shall remain in effect for a trial period of two years commencing on January 1, 1978. Within six months immediately prior to the end of such period, the department shall submit a report to the Governor and to the Legislature on the approximate cost of the program.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

CHAPTER 785

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

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

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

(a) That the people of the state and the people of the County of Riverside have a primary interest in the quality of the ground and surface waters of the state and of the County of Riverside, and that the state and the county must be prepared to exercise their full power and jurisdiction to protect the quality of such waters from degradation and pollution in order to protect the public health and safety.

(b) That there exists in the county the Stringfellow Quarry, a Class I Hazardous Waste Disposal Site, which has not operated since December, 1972, but which contains hazardous wastes and the residues of such wastes, including toxic acids and heavy metals, which pose a potential danger to the health and safety of the people of the county and to the quality of water within the county.

(c) That these hazardous wastes are presently leaching through the soil and contaminating areas surrounding the site.

(d) That there is a clear and imminent danger that runoff from the site, caused by a sudden, unexpected, and violent storm or otherwise, could seriously or irreparably contaminate and pollute nearby wells and groundwaters, and thereby endanger the public health and safety.

(e) That, because of the threatened nuisance and pollution, many of the people of the county have requested that state and local officials close this site.

(f) That, on November 13, 1974, the board of supervisors of the county canceled the special use permit for operation of the site, thereby foreclosing the possibility of reopening this site and terminating the generation of revenues from charges imposed for the use of the site.

(g) That the State Water Resources Control Board has expended over fifty-five thousand dollars ($55,000) in emergency funds in dealing with problems caused by the site.

(h) That, in response to requests from the Santa Ana Regional Water Quality Control Board, state officials, and many people of the county, the State Water Resources Control Board caused an engineering study and report of the site to be prepared for the purpose of determining the various methods available for abating this threatened nuisance and pollution.

(i) That the study and report on the site was published in January 1977, and the Santa Ana Regional Water Quality Control Board held a public hearing on January 14, 1977, to receive testimony regarding the technical, economic, environmental, and public concerns regarding the methods discussed in the study and report.

(j) That, after that hearing, the Santa Ana Regional Water Quality Control Board found, by resolution, that the most cost-effective method of abating the threat of pollution and nuisance from the site

can be implemented for the approximate sum of three hundred seventy thousand dollars, ($370,000) in capital costs and three thousand dollars ($3,000) per month in operating costs, and that such board applied to, and requested that, the State Water Resources Control Board take all necessary steps to secure funding to accomplish this abatement program and further requested that matching funds be appropriated by the county for such purposes.

SEC. 2. The sum of two hundred ninety-six thousand dollars ($296,000) is hereby appropriated from the General Fund and, subject to the conditions specified in Section 3, shall be disbursed and expended in the following manner and subject to the following conditions:

(a) The Director of Finance shall disburse the sum of one hundred and forty-eight thousand dollars ($148,000) to the County of Riverside, which sum shall be repaid by the county pursuant to the provisions of the agreement required by Section 3. The Director of Finance shall disburse the sum of one hundred forty-eight thousand dollars ($148,000) to the State Controller for deposit in the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund, as provided in Section 13441 of the Water Code.

(b) All funds appropriated by this act shall be expended solely for the purpose of abating threatened conditions of nuisance and pollution caused by the Stringfellow Quarry Class I Hazardous Waste Disposal Site. However, any sum which has been disbursed pursuant to subdivision (a), but which has not been expended for abatement, shall remain in the State Water Pollution Cleanup and Abatement Account and shall be expended solely for the purpose of maintaining and monitoring the site to prevent future recurrence of any such condition.

SEC. 3. No funds appropriated by Section 2 may be disbursed unless and until the Director of Finance finds that the following conditions have occurred:

(a) That there exists a written agreement between the county and the state regarding abatement of the threatened conditions of pollution and nuisance caused by the site and that such agreement has been signed by the chairman of the board of supervisors of the County of Riverside, after approval of such agreement by the board, the chairman of the State Water Resources Control Board, after approval of such agreement by the state board, and the Director of Finance.

(b) That the agreement contains all of the following provisions:

(1) The state board will order seventy-four thousand dollars ($74,000) to be disbursed from the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund for abatement of the threatened conditions of nuisance and pollution caused by the site.

(2) The state will cause such conditions to be abated within a time specified in the agreement and will maintain and monitor the site to

prevent future recurrence of any such condition.

(3) The county agrees to transfer the sum appropriated to it in Section 2 to the State Water Pollution Cleanup and Abatement Account upon receipt of such sum, and further agrees to repay the General Fund the sum of one hundred forty-eight thousand dollars ($148,000) on or before December 31, 1980; and if such repayment is made in full on or before that date, the county will not be liable for any interest.

(4) Such other terms and conditions as the parties to the agreement determine are necessary to effectuate the purposes of this act.

SEC. 4. The Director of Finance and the State Water Resources Control Board are hereby authorized to perform any act necessary to implement the provisions of this act.

SEC. 5. The Legislature hereby finds and declares that a general statute, within the meaning of Section 16 of Article IV of the Constitution, cannot be made applicable to the unique problems that this act is intended to remedy and that the enactment of this act as a special statute is necessary.

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

The State of California and the County of Riverside have a responsibility to abate the threatened conditions of pollution and nuisance caused by this hazardous waste disposal site as soon as possible in order to protect the health and safety of the people. Therefore, it is imperative that this act take effect immediately.

CHAPTER 786

An act to amend Section 26840.3 of, and to add Section 26840.4 to, the Government Code, relating to fees.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 26840.3 of the Government Code is amended to read:

26840.3. (a) The superior court of any county which maintains a conciliation court may, upon action by the board of supervisors to provide from other sources a substantially equal amount, increase the following fees by the following amounts:

(1) The fee for the filing of a petition for dissolution of a marriage, a petition for legal separation, or a petition for nullity of a marriage, by not to exceed five dollars ($5).

(2) The fee for issuing a marriage license, by not to exceed two dollars ($2).

(3) The fee for filing a marriage certificate pursuant to Section 4213 of the Civil Code, by not to exceed two dollars ($2).

The funds shall be paid to the county treasury and shall be used exclusively to pay the costs of maintaining the conciliation court.

SEC. 2. Section 26840.4 is added to the Government Code, to read:

26840.4. As an alternative to the procedure in paragraph (1) of subdivision (a) of Section 26840.3, the Board of Supervisors of Napa or Shasta County may impose a fee for the filing of a petition for dissolution of a marriage, a petition for legal separation, or a petition for nullity of a marriage, which, when added to the additional fees, if any, collected pursuant to paragraphs (2) and (3) of subdivision (a) of Section 26840.3, is sufficient to cover the costs of operation of the conciliation court. However, no fee adopted pursuant to this subdivision shall exceed the fee charged on January 1, 1978, by more than sixty dollars ($60).

The funds shall be paid to the county treasury and shall be used exclusively to pay the costs of maintaining the conciliation court.

CHAPTER 787

An act to amend Section 17026 of, and to add Section 17048.5 to, the Business and Professions Code, relating to unfair trade practices.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 17026 of the Business and Professions Code is amended to read:

17026. "Cost" as applied to production includes the cost of raw materials, labor and all overhead expenses of the producer.

"Cost" as applied to distribution means the invoice or replacement cost, whichever is lower, of the article or product to the distributor and vendor, plus the cost of doing business by the distributor and vendor and in the absence of proof of cost of doing business a markup of 6 percent on such invoice or replacement cost shall be prima facie proof of such cost of doing business.

"Cost" as applied to warranty service agreements includes the cost of parts, transporting the parts, labor, and all overhead expenses of the service agency.

Discounts granted for cash payments shall not be used to reduce costs.

SEC. 2. Section 17048.5 is added to the Business and Professions Code, to read:

17048.5. It is unlawful for any manufacturer, wholesaler, distributor, jobber, contractor, broker, retailer, or other vendor, or any agent of any such person, to enter into a contract with any service or repair agency for the performance of warranty service and repair for products manufactured, distributed, or sold by such person, below the cost to such service or repair agency of performing the warranty service or repair.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 788

An act to amend Section 18300 of, and to add Section 18306 to, the Health and Safety Code, relating to mobilehome parks.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977]

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

SECTION 1. Section 18300 of the Health and Safety Code is amended to read:

18300. The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. The commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state. Upon 30 days written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part and the regulations adopted pursuant thereto following approval by the department for such assumption.

The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations shall relate solely to the ability of local agencies to enforce properly the regulations relating to mobilehome parks promulgated pursuant to this part. The regulations shall not set standards for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county,

together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

In the event of nonenforcement of this part or the regulations adopted pursuant thereto, the provisions of this part and the regulations adopted pursuant thereto shall be enforced by the department in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part and the regulations adopted pursuant thereto, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(a) From prohibiting mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within all or certain zones within such city, county, or city and county, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps; or

(b) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto; or

(c) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this

part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use; or

(d) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulation adopted pursuant thereto do not require the issuance of a permit therefor by the department.

SEC. 2. Section 18306 is added to the Health and Safety Code, to read:

18306. The department shall evaluate the enforcement of this part and regulations adopted pursuant thereto by each city, county, or city and county which has assumed responsibility for enforcement.

CHAPTER 789

An act to add Section 7907 to the Public Utilities Code, relating to telephone lines, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 7907 is added to the Public Utilities Code, to read:

7907. Notwithstanding Section 591, 631, or 632 of the Penal Code or Section 7906 of this code, the supervising law enforcement official having jurisdiction in the geographical area where hostages are held who has probable cause to believe that the holder of one or more hostages is committing a crime shall have the authority to order a previously designated telephone company security employee to arrange to cut, reroute, or divert telephone lines in any emergency in which such hostages are being held, for the purpose of preventing telephone communication by the holder of such hostages with any person other than a peace officer or a person authorized by the peace officer.

The serving telephone company within the geographical area of a law enforcement unit shall designate a telephone company security official and an alternate to provide all required assistance to law

enforcement officials to carry out the purposes of this section.

Good faith reliance on an order by a supervising law enforcement official shall constitute a complete defense to any action brought under this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The purpose of this act is to protect human life and to provide a means of coping with emergency situations that are unpredictable and could occur at any time. Thus, it is necessary that this act take effect immediately.

CHAPTER 790

An act relating to sidewalk improvements, and making an appropriation therefor.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977]

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

SECTION 1. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Department of Health for payment to the City of Santa Clara of the department's share of the cost of installing the sidewalk fronting the Agnews State Hospital in the city.

CHAPTER 791

An act making an appropriation for emergency services, and in this connection augmenting and supplementing Item 35 of the Budget Act of 1977, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1977 Filed with Secretary of State September 13, 1977.]

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

SECTION 1. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Office of Emergency Services, in augmentation of Item 35 of the Budget Act of 1977, to fund the share of the Fire and Rescue Division of the Office of Emergency Services and the share of the Department of Forestry for the 1977–78 and 1978–79 fiscal years for the FIRESCOPE program.

Such funds shall be used for the continued research, development, and operational testing of the FIRESCOPE program prior to full implementation. No funds appropriated by this act shall, however, be encumbered unless and until federal matching funds in the amount of fifty thousand dollars ($50,000) are received by the state for the continued research, development, and operational testing of the FIRESCOPE program.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act will provide funds to the Office of Emergency Services and the Department of Forestry for use during the 1977–78 and 1978–79 fiscal years. In order that such funds may be made available at the beginning of 1977–78 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 792

An act to amend Section 377 of the Code of Civil Procedure, relating to wrongful death actions.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 377 of the Code of Civil Procedure is amended to read:

377. (a) When the death of a person is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or in case of the death of such wrongdoer, against the personal representative of such wrongdoer, whether the wrongdoer dies before or after the death of the person injured. If any other person is responsible for any such wrongful act or neglect, the action may also be maintained against such other person, or in case of his or her death, his or her personal representatives. In every action under this section, such damages may be given as under all the circumstances of the case, may be just, but shall not include damages recoverable under Section 573 of the Probate Code. The respective rights of the heirs in any award shall be determined by the court. Any action brought by the personal representatives of the decedent pursuant to the provisions of Section 573 of the Probate Code may be joined with an action arising out of the same wrongful act or neglect brought pursuant to the provisions of this section. If an action be brought pursuant to the provisions of this section and a separate action arising out of the same wrongful act or neglect be brought

pursuant to the provisions of Section 573 of the Probate Code, such actions shall be consolidated for trial on the motion of any interested party.

(b) For the purposes of subdivision (a), "heirs" mean only the following:

(1) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of Division 2 (commencing with Section 200) of the Probate Code,

(2) Whether or not qualified under paragraph (1), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, and parents. As used in this paragraph, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid, and

(3) Minors, whether or not qualified under paragraphs (1) or (2), if, at the time of the decedent's death, they resided for the previous 180 days in the decedent's household and were dependent upon the decedent for one-half or more of their support.

Nothing in this subdivision shall be construed to change or modify the definition of "heirs" under any other provision of law.

CHAPTER 793

An act to amend Section 41897 of the Education Code, relating to regional occupational centers and programs.

[Approved by Governor September 13, 1977. Filed with Secretary of State September 13, 1977.]

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

SECTION 1. Section 41897 of the Education Code is amended to read:

41897. The Superintendent of Public Instruction shall allow to each district participating in a regional occupational center or to each county superintendent of schools operating a regional occupational center, for each unit of average daily attendance attributable to a person educated in a regional occupational center or program pursuant to Section 52315, the following amounts:

(a) One thousand nine hundred and fifty-five dollars ($1,955) for each visually handicapped person.

(b) One thousand one hundred and twenty dollars ($1,120) for each deaf person.

(c) Six hundred and twenty dollars ($620) for each orthopedically handicapped person.

The allowance prescribed by this section is in addition to other allowances or apportionments which may be received because of such attendance and can only be received if the specific service for

which the allowance or apportionment is made is not otherwise provided by a community college within a reasonable commuting distance of the regional occupational center.

Each governing body maintaining a regional occupational center or program shall account for expenditures made on account of additional special instruction and support services pursuant to Section 52315. Expenditures shall be reported as an amount per pupil in average daily attendance in each of the categories specified in subdivisions (a), (b), and (c). If the Superintendent of Public Instruction determines that the expenditures, as reported, do not equal or exceed the allowances prescribed in subdivisions (a), (b), and (c), the amount of the deficiency shall be withheld from apportionments to the school district or the county superintendent of schools in the succeeding fiscal year in accordance with the procedure prescribed in Section 41341.

CHAPTER 794

An act to amend Sections 73484, 73485, 73487, 73705, 73706, 73710, 74803, 74804, and 74807 of the Government Code, relating to courts.

[Became law without Governor's signature September 14, 1977 Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 48.0 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal shall be adjusted by an amount equivalent to that of the said class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 2. Section 73485 of the Government Code is amended to read:

73485. The marshal may appoint:

(a) Four deputy marshals.

(b) Two clerk-typists II.

SEC. 3. Section 73487 of the Government Code is amended to read:

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary

ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	30.25
(b) Deputy clerk II	32.25
(c) Deputy clerk III	34.25
(d) Deputy clerk IV	37.50
(e) Clerk	42.50
(f) Clerk-typist II	30.25
(g) Deputy Marshal	41.0

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 4. Section 73705 of the Government Code is amended to read:

73705. The clerk may appoint:

(a) Two (2) chief deputy clerks who shall be assistant administrative officers.

(b) Two (2) deputy clerks III.

(c) Seven (7) deputy clerks II.

(d) Six (6) deputy clerks I.

SEC. 5. Section 73706 of the Government Code is amended to read:

73706. There shall be one marshal who shall receive the biweekly salary specified in range 48.0 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of lieutenant in the service of the County of San Joaquin is adjusted, the salary of the marshal shall be adjusted by an amount equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 6. Section 73710 of the Government Code is amended to read:

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Chief deputy clerk	41.75
(b) Deputy clerk III	34.25
(c) Deputy clerk II	32.25
(d) Deputy clerk I	30.25
(e) Clerk	42.50
(f) Clerk-typist II	30.25

(g) Senior deputy marshal 43.25
(h) Deputy marshal 41.0

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 7. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:

(a) One deputy clerk who shall be assistant administrative officer and chief deputy.
(b) One deputy clerk V.
(c) Eleven deputy clerks IV.
(d) Six deputy clerks III.
(e) One deputy clerk III (stenographer).
(f) Two deputy clerks II (stenographer).
(g) Seven deputy clerks II.
(h) Twenty-five deputy clerks I.

SEC. 8. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 51.0 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal shall be adjusted by an amount equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 9. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	30.25
(b) Deputy clerk II (stenographer)	31.75
(c) Deputy clerk II	32.25
(d) Deputy clerk III	34.25
(e) Deputy clerk III (stenographer)	34.75
(f) Deputy clerk IV	37.50
(g) Deputy clerk V	39.25
(h) Chief deputy clerk	41.75
(i) Clerk	50.50

(j) Clerk-typist II 30.25
(k) Deputy marshal 41.0
(*l*) Senior deputy marshal 43.25

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 795

An act to add Section 307 to the Penal Code, relating to alcoholic beverages.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 307 is added to the Penal Code, to read:

307. Every person, firm or corporation which sells or gives or in any way furnishes to another person, who is in fact under the age of 21 years, any candy, cake, cookie or chewing gum weighing five ounces or less and which contains alcohol in excess of 2 percent by weight, is guilty of a misdemeanor.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 796

An act to add Section 49101 to the Education Code, and to amend Section 1288 of the Labor Code, relating to minors.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977.]

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

SECTION 1. Section 49101 is added to the Education Code, to read:

49101. The provisions of this chapter shall not apply to any minor who has been graduated from a high school maintaining a four-year course above the eighth grade of elementary schools, or who has had an equal amount of education in a private school or by private tuition, or who has been awarded a certificate of proficiency pursuant to Section 48412 of the Education Code.

SEC. 2. Section 1288 of the Labor Code is amended to read:

1288. Citations issued pursuant to this article shall be classified according to the nature of the violation, and shall indicate the classification on the face thereof, as follows:

(a) Class "A" violations are violations of Section 1292, 1293, 1294, 1308, or 1392, and such other violations which the director determines present an imminent danger to minor employees or a substantial probability that death or serious physical harm would result therefrom. The violation of Section 1391 for the third or subsequent time shall also constitute a class "A" violation. A physical condition or one or more practices, means, methods, or operations in use in a place of employment may constitute such a violation. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) and not exceeding five thousand dollars ($5,000) for each and every violation. Willful or repeated violations shall receive higher civil penalties than those imposed for comparable nonwillful or first violations.

(b) Class "B" violations are violations of Section 1299 or 1308.5, or a violation of Section 1391 for the first and second time, and such other violations which the director determines have a direct or immediate relationship to the health, safety, or security of minor employees, other than class "A" violations. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) and not exceeding five hundred dollars ($500) for each and every violation. Willful or repeated violations shall receive higher civil penalties than those imposed for comparable nonwillful or first violations. A second violation of Section 1391 shall be subject to a civil penalty of five hundred dollars ($500).

CHAPTER 797

An act to amend Sections 33080, 33125.5, 33141, 33365, 33366, 33388, 33450, 33500, 33640, and 33645 of, to add Sections 33080.1, 33080.2, 33385.5, 33457.1, and 33606 to, and to add Article 5.5 (commencing with Section 33378) to Chapter 4 of Part 1 of Division 24 of, the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977.]

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

SECTION 1. Section 33080 of the Health and Safety Code is amended to read:

33080. Every agency shall file with the department, on the first day of October of each year, a copy of the report required by Section 38080.1.

SEC. 2. Section 33080.1 is added to the Health and Safety Code, to read:

33080.1. Every redevelopment agency shall present a report to its legislative body on or before October 1 of each year. The report shall contain all of the following:

(a) An independent financial audit report for the previous fiscal year. "Audit report" means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency. Such audit shall be conducted in accordance with generally accepted auditing standards and the rules governing audit reports promulgated by the State Board of Accountancy. The audit report shall also include an opinion of the agency's compliance with laws, regulations and administrative requirements governing activities of the agency.

(b) A work program for the coming year, including goals.

(c) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program; and

(d) Recommendations for needed legislation to carry on properly a program of housing and community development in California.

SEC. 3. Section 33080.2 is added to the Health and Safety Code, to read:

33080.2. The legislative body shall review the report and take any action which it deems appropriate on the report submitted pursuant to Section 33080.1 no later than the first meeting of the legislative body occurring more than 21 days from the receipt of the report.

SEC. 4. Section 33125.5 of the Health and Safety Code is amended to read:

33125.5. An agency shall keep a record of the proceedings of its meetings and those records shall be open to examination by the public to the extent required by law.

SEC. 5. Section 33141 of the Health and Safety Code is amended to read:

33141. Upon the motion of the legislative body or upon recommendation of the agency, the legislative body of the community may, by ordinance, order the deactivation of an agency by declaring there is no need for an agency to function in the community, provided, the agency has no outstanding bonded indebtedness, no other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the community, unless the community assumes the bonded indebtedness, unpaid loans, indebtedness, and advances, and legally binding contractual obligations. An ordinance of a legislative body declaring there is no need for an agency to function in the community shall be subject to referendum as prescribed by law for the ordinances of the legislative body.

SEC. 6. Section 33365 of the Health and Safety Code is amended to read:

33365. The legislative body by ordinance may adopt the redevelopment plan as the official redevelopment plan for the project area.

Except as otherwise provided in Section 33378, the ordinance adopting the redevelopment plan shall be subject to referendum as prescribed by law for the ordinances of the legislative body.

SEC. 7. Section 33366 of the Health and Safety Code is amended to read:

33366. If the planning commission or the project area committee has recommended against the approval of the redevelopment plan, the legislative body may adopt such plan by a two-thirds vote of its entire membership eligible and qualified to vote on such plan. If the planning commission or the project area committee has recommended approval or failed to make any recommendation within the time allowed, the legislative body may adopt the redevelopment plan by a majority vote of the entire membership eligible and qualified to vote on such plan.

SEC. 8. Article 5.5 (commencing with Section 33378) is added to Chapter 4 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 5.5. Referendums

33378. With respect to ordinances subject to referendum pursuant to Sections 33365 and 33450 which provide for tax-increment financing pursuant to Section 33670 or expand a project area subject to such tax-increment financing, the language of the statement of the ballot measure shall be approved by the county clerk and shall set forth with clarity and in language understandable to the average person that a "Yes" vote is a vote in favor of adoption or amendment of the redevelopment plan and a "No" vote is a vote against the adoption or amendment of the redevelopment plan.

Notwithstanding any other provision of law, including the charter of any city or city and county, referendum petitions circulated in cities or counties over 500,000 population shall bear valid signatures numbering not less than 10 percent of the total votes cast within the city or county for Governor at the last gubernatorial election and shall be submitted to the clerk of the legislative body within 90 days of the adoption of an ordinance subject to referendum under this article.

Such referendum measure shall include, in the ballot pamphlet, an analysis by the county auditor/controller and, at the option of the city, a separate analysis by the city or the agency, of the redevelopment plan or amendment which will include (1) an estimate of the potential impact on property taxes per each ten thousand dollars ($10,000) of assessed valuation for taxpayers located in the city or county, as the case may be, outside the redevelopment project area during the life of the redevelopment project and (2) an estimate of what would happen to the project area in the absence of the redevelopment project. Such analysis shall include the impact of potential increases in city, county, school district, and special district taxes, both over the total life of the project and also on the basis of the average annual impact.

33378.5. The provisions of this part establishing a right of referendum shall not be applicable to a charter city in the County of Los Angeles containing a population of 1,000 or less until January 1, 1983.

SEC. 9. Section 33385.5 is added to the Health and Safety Code, to read:

33385.5. The agency shall forward copies of the proposed amendment to the redevelopment plan to the project area committee, if one exists, at least 30 days before the hearing of the legislative body, required in Section 33454.

Where the proposed amendment would enlarge the project area, the redevelopment agency shall call upon the project area committee to expand its membership to include additional members on the project area committee in compliance with Section 33385. Such expansion of membership shall be submitted to the legislative body within 30 days for the body's approval within 60 days to assure that the project area committee is representative. The legislative body shall not hold the public hearing, required by Section 33454, until the enlarged project area committee has had at least 30 days to consider the proposed amendment.

The committee, if it chooses, may prepare a report and recommendations for submission to the legislative body. If the project area committee opposes the adoption of the proposed amendment, the legislative body may only adopt the amendment by a two-thirds vote of its entire membership eligible and qualified to vote on such amendments.

SEC. 10. Section 33388 of the Health and Safety Code is amended to read:

33388. Upon recommendation of the project area committee, funds as determined necessary by the legislative body for the operation of the project area committee shall be allocated to the committee by the legislative body. Such allocation shall include funds or equivalent resources for a committee office, equipment and supplies, legal counsel, and adequate staff for the purposes set forth in Section 33386.

However, no funds allocated under this section shall be used for any litigation, other than litigation to enforce or defend the rights of the project area committee under this part.

SEC. 11. Section 33450 of the Health and Safety Code is amended to read:

33450. If at any time after the adoption of a redevelopment plan for a project area by the legislative body, it becomes necessary or desirable to amend or modify such plan, the legislative body may by ordinance amend such plan upon the recommendation of the agency. The agency recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the project area to add land to or exclude land from the project area. Except as otherwise provided in Section 33378, the ordinance shall be subject to referendum as prescribed by law for the ordinances of the legislative body.

SEC. 12. Section 33457.1 is added to the Health and Safety Code, to read:

33457.1. To the extent warranted by a proposed amendment to a redevelopment plan, (1) the ordinance adopting an amendment to a redevelopment plan shall contain the findings required by Section 33367 and (2) the reports and information required by Section 33352 shall be prepared and made available to the public prior to the hearing on such amendment.

SEC. 13. Section 33500 of the Health and Safety Code is amended to read:

33500. No action attacking or otherwise questioning the validity of any redevelopment plan, or amendment to a redevelopment plan, or the adoption or approval of such plan, or amendment, or any of the findings or determinations of the agency or the legislative body in connection with such plan shall be brought prior to the adoption of the redevelopment plan nor at any time after the elapse of 60 days from and after the date of adoption of the ordinance adopting or amending the plan.

The amendments made to this section at the 1977–78 Regular Session of the Legislature do not represent a change in, but are declaratory of, existing law.

SEC. 14. Section 33606 is added to the Health and Safety Code, to read:

33606. An agency shall adopt an annual budget containing specific information identifying the proposed expenditures of the agency, the proposed indebtedness to be incurred by the agency, and the anticipated revenues of the agency. The annual budget may be

amended from time to time as determined by the agency. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.

When the legislative body is not the redevelopment agency, the legislative body shall approve the annual budget and amendments of the annual budget of the agency.

SEC. 15. Section 33640 of the Health and Safety Code is amended to read:

33640. From time to time an agency may, subject to the approval of the legislative body, issue bonds for any of its corporate purposes. An agency may also, subject to the approval of the legislative body, issue refunding bonds for the purpose of paying or retiring bonds previously issued by it.

SEC. 16. Section 33645 of the Health and Safety Code is amended to read:

33645. The agency may authorize bonds by resolution. The resolution, trust indenture, or mortgage may provide for:

(a) The issuance of the bonds in one or more series.

(b) The date the bonds shall bear.

(c) The maturity dates of the bonds.

(d) The rate or maximum rate of interest on the indebtedness, which shall not exceed 8 percent, and need not be recited if such rate does not exceed 4½ percent. Such interest shall be payable semiannually, except that interest for the first year after the date of the bonds may be made payable at the end of such year.

(e) The denomination of the bonds.

(f) Their form, either coupon or registered.

(g) The conversion or registration privileges carried by the bonds.

(h) The rank or priority of the bonds.

(i) The manner of their execution.

(j) The medium of payment.

(k) The place of payment.

(*l*) The terms of redemption with or without premium to which the bonds are subject.

(m) The maximum amount of bonded indebtedness in compliance with, and not to exceed, the limit specified in the redevelopment plan as required in Section 33334.1.

The resolution, trust indenture, or mortgage shall provide that tax-increment funds allocated to an agency pursuant to Section 33670 shall not be payable to a trustee on account of any issued bonds when sufficient funds have been placed with the trustee to redeem all outstanding bonds of the issue.

SEC. 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 18. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that

section nor shall there be an appropriation made by this act because the duties, obligations, and responsibilities imposed on local government entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 798

An act to add Section 2.5 to Chapter 152 of the Statutes of 1977, relating to the Salinas Union High School District and property taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 2.5 is added to Chapter 152 of the Statutes of 1977, to read:

2.5. Notwithstanding Sections 54902, 54902.1, and 54903 of the Government Code, the formation of the improvement area within the boundaries of the Salinas Union High School District pursuant to this act shall be effective for assessment and taxation purposes for the 1978–79 fiscal year if the required statement and map or plot is filed with each assessor whose roll is used for the levy and with the State Board of Equalization in Sacramento on or before March 24, 1978.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

SEC. 3. Due to the unique circumstances concerning the needs for new school facilities of the Salinas Union High School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 4. This act shall remain in effect only until January 1, 1981, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1981, deletes or extends such date.

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

In order that assessment and taxation of property in the improvement area which may be established, pursuant to Chapter 152 of the Statutes of 1977, within the Salinas Union High School

District, for the construction of needed school facilities, at a forthcoming election may be accomplished in fiscal year 1978–79, it is essential that this act take immediate effect.

CHAPTER 799

An act to amend Sections 6152 and 6153 of the Business and Professions Code, relating to release from liability claims, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 6152 of the Business and Professions Code is amended to read:

6152. (a) It is unlawful for:

(1) Any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any such attorneys or to solicit any business for any such attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, municipal courts, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.

(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

(b) A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to such claim and primarily for treatment of such injury, is presumed fraudulent if such release is executed within 15 days after the commencement of such confinement or prior to release from such confinement, whichever occurs first.

(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where such recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.

(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether such persons are in custody or otherwise.

SEC. 2. Section 6153 of the Business and Professions Code is amended to read:

6153. Any person, firm, partnership, association, or corporation violating subdivision (a) of Section 6152 is guilty of a misdemeanor, and is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of the provisions of this article, shall forfeit the right to his office and employment in addition to any other penalty provided in this article.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to prevent uncertainty and confusion in the event that lawsuits are initiated, it is necessary that this act take immediate effect.

CHAPTER 800

An act to amend Section 375 of, and to add Section 24602 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977.]

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

SECTION 1. Section 375 of the Vehicle Code is amended to read:

375. "Lighting equipment" is any of the following lamps or devices:

(a) Any headlamp, auxiliary driving, passing, or fog lamp, fog taillamp, taillamp, stoplamp, supplemental stoplamp, license plate lamp, clearance lamp, side marker lamp, signal lamp or device, supplemental signal lamp; deceleration signal device, cornering lamp, running lamp, diffused nonglaring lamp, red, blue, or amber warning lamp, and flashing red schoolbus lamp.

(b) Any operating unit or canceling mechanism for turn signal lamps or for the simultaneous flashing of turn signal lamps as vehicular hazard signals, and any flasher mechanism for turn signals, red schoolbus lamps, warning lamps, and the simultaneous flashing of turn signal lamps as vehicular hazard signals.

(c) Any equipment regulating the light emitted from any lamp or device or the light sources therein.

(d) Any reflector, including reflectors for use on bicycles and

reflectors used for required warning devices.

SEC. 2. Section 24602 is added to the Vehicle Code, to read:

24602. (a) Any vehicle 80 inches or more in overall width and any vehicle defined in Section 545 may be equipped with not more than two red fog taillamps mounted on the rear which may be lighted, in addition to the required taillamps, only when atmospheric conditions, such as fog, rain, snow, smoke, or dust, reduce the daytime or nighttime visibility of other vehicles to less than 500 feet.

(b) Such lamps shall be installed as follows:

(1) When two lamps are installed, one shall be mounted at the left side and one at the right side at the same level and as close as practical to the sides. When one lamp is installed, it shall be as close as practical to the left side.

(2) The lamps shall be mounted not lower than 15 inches nor higher than 60 inches.

(3) The edge of the lens of the lamp shall be no closer than four inches from the edge of the lens of any stoplamp.

(4) The lamps shall be wired so they can be turned on only when the headlamps are on and shall have a switch that allows them to be turned off when the headlamps are on.

(5) A nonflashing amber pilot light which is lighted when the lamps are turned on shall be mounted in a location readily visible to the driver.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

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

This act will permit the use of fog taillamps on specified vehicles. In order that such lamps may be used this fall, when heavy fog conditions next occur, it is necessary that this act take effect immediately.

CHAPTER 801

An act relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977]

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

SECTION 1. The Legislature finds and declares that a special statute is required to prohibit the expansion of the North Los Altos Water Company, a private water corporation operating, in part, within a portion of the City of Los Altos, wherein a bond election has been called for May 31, 1977, to fund the City of Los Altos Community Facilities District No. 1 for the purpose of providing water service presently provided by North Los Altos Water Company. This act specifies the period when such expansion shall be prohibited.

SEC. 2. The North Los Altos Water Company shall not engage in any construction work, for the period specified in Section 3 of this act except where necessary:

(1) To extend service to customers;

(2) To maintain the existing water system;

(3) To meet an emergency; or

(4) To protect the safety and health of the public or any portion thereof.

SEC. 3. No construction work, except as specified in Section 2 of this act, shall be done from the effective date of this act until July 1, 1979. If the proposition for incurring a bonded indebtedness for the City of Los Altos Community Facilities District No. 1 is rejected by the voters, this act shall become inoperative.

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

In order that any expansion by the North Los Altos Water Company may be delayed until after the May 31, 1977, election to be held in the City of Los Altos, it is essential that this act take immediate effect.

CHAPTER 802

An act to amend Section 8901 of the Government Code, relating to compensation of legislators, and making an appropriation therefor.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 8901 of the Government Code is amended to read:

8901. Commencing at noon on January 2, 1967, each Member of the Legislature shall receive as compensation for his services sixteen

thousand dollars ($16,000) per year, during the term for which he was elected, payable in equal monthly amounts.

Commencing at noon on January 4, 1971, the annual compensation provided by this section shall be increased to nineteen thousand two hundred dollars ($19,200).

Commencing at noon on December 2, 1974, the annual compensation provided by this section shall be increased to twenty-one thousand one hundred twenty dollars ($21,120).

Commencing at noon on December 6, 1976, the annual compensation provided by this section shall be increased to twenty-three thousand two hundred thirty-two dollars ($23,232).

Commencing at noon on December 4, 1978, the annual compensation provided by this section shall be increased to twenty-five thousand five hundred fifty-five dollars ($25,555).

CHAPTER 803

An act to repeal Section 30008 of the Public Utilities Code, relating to transit district insurance.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 30008 of the Public Utilities Code is repealed.

CHAPTER 804

An act to amend Sections 4760, 4762, 4763, 41103, and 41103.5 of, and to add Sections 40807 and 41103.2 to, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977]

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

SECTION 1. Section 4760 of the Vehicle Code is amended to read:

4760. The department shall refuse to renew the registration of any vehicle whose registered owner or lessee has been sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with the provisions of paragraph (2) of Section 41103, unless he pays to the department, at the time he applies for renewal, the full amount of bail for offenses relating to standing or parking which he has failed

to deposit as required by law, as shown by records of the department.

SEC. 2. Section 4762 of the Vehicle Code is amended to read:

4762. The department shall remit all bail collected, after deducting the administrative fee authorized by Section 4763 for each notice of violation for which bail has been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of violation, and shall inform each jurisdiction of which of its notices have been discharged by deposit of the appropriate amounts of bail.

SEC. 3. Section 4763 of the Vehicle Code is amended to read:

4763. The Department of Motor Vehicles shall include on the potential registration card, or on an accompanying document, of every person who has been sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with the provisions of paragraph (2) of Section 41103, and shall collect pursuant to Sections 4760 and 41103.5, at the time registration renewal is applied for, a fee which shall be an amount, as determined by the department, that is sufficient (together with other such fees) to provide a total amount equal to its actual costs of administering the provisions of Sections 4760, 4761, 4762, 4764, 4765, and 41103.5, and the costs incurred by the Department of the California Highway Patrol in enforcing provisions of law relating to registration requirements that have been violated by a person whose vehicle the Department of Motor Vehicles has refused to register because he has not paid to the Department of Motor Vehicles the full amount of bail for parking offenses, as required pursuant to Section 4760, or the fee specified in this section.

SEC. 4. Section 40807 is added to the Vehicle Code, to read:

40807. No record of any action taken by the department against a person's privilege to operate a motor vehicle, nor any testimony regarding the proceedings at, or concerning, or produced at, any hearing held in connection with such action, shall be admissible as evidence in any court in any criminal action.

No provision of this section shall in any way limit the admissibility of such records or testimony as is necessary to enforce the provisions of this code relating to operating a motor vehicle without a valid driver's license or when the driving privilege is suspended or revoked, the admissibility of such records or testimony in any prosecution for failure to disclose any matter at such a hearing when required by law to do so, or the admissibility of such records and testimony when introduced solely for the purpose of impeaching the credibility of a witness.

SEC. 5. Section 41103 of the Vehicle Code is amended to read:

41103. The method of giving notice for the purposes of the provisions of Section 41102 is as follows:

(1) During the time of the violation a notice thereof shall be securely attached to the vehicle setting forth the violation, including reference to the section of this code or of such ordinance so violated, the approximate time thereof, and the location where such violation

occurred and fixing a time and place for appearance by the registered owner or the lessee or renter in answer to such notice.

Such notice shall be attached to such vehicle either on the steering post or front door handle thereof or in such other conspicuous place upon the vehicle as to be easily observed by the person in charge of such vehicle upon his return thereto.

(2) Before any notice of noncompliance may be forwarded to the department under Section 41103.5 or any warrant for the arrest of a resident of this state may be issued following the filing of a complaint charging such a violation, a notice of the violation shall be given to the person so charged. Such notice shall contain the information required in paragraph (1) and shall also inform such registered owner or the lessee or renter that unless he appears in the court designated in such notice within 10 days after service of such notice and answers such charge, or completes and files an affidavit of nonownership, the renewal of his registration is contingent upon his compliance with the notice of violation and that, failing such compliance, a warrant or citation to appear may be issued against him.

Such notice shall contain or be accompanied by an affidavit of nonownership. In addition to any other required information, such notice shall also provide information as to what constitutes nonownership, information as to the effect of executing such affidavit, and instructions for mailing or returning the affidavit to the court. Upon receipt of evidence satisfactory to the court that the person charged with violating Section 41102 has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged violation, the court shall obtain verification from the department that the person charged has complied with the requirements of subdivision (a) or (b) of Section 5602, and, if the person has complied with subdivision (a) or (b) of Section 5602, the charges against the person under Section 41102 shall be dismissed.

Such notice shall be given, either by personal delivery thereof to such owner, lessee or renter, or by deposit in the United States mail of an envelope with postage prepaid, which envelope shall contain such notice and shall be addressed to such owner, lessee or renter at his address as shown by the records of the department or the leasing or renting agency. The giving of notice by personal delivery is complete upon delivery of a copy of such notice to such person. The giving of notice by mail is complete upon the expiration of 10 days after the deposit of such notice.

Proof of giving such notice may be made by the certificate of any traffic or police officer or affidavit of any person over 18 years of age naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof.

(3) Before any warrant for the arrest of a nonresident of this state may be issued following the filing of a complaint charging such a violation, a notice of the violation shall be given to the person so

charged. Such notice shall contain the information required in paragraph (1) and shall also inform such registered owner or the lessee or renter that unless he appears in the court to be designated in such notice within 10 days after service of such notice and answers such charge, or completes and files an affidavit of nonownership, a warrant or citation to appear will be issued against him.

SEC. 6. Section 41103.2 is added to the Vehicle Code, to read:

41103.2. No warrant for the arrest of a resident of this state may be issued for an offense for which a notice of noncompliance regarding such person has been forwarded to the department pursuant to Section 41103.5, except that when a notice to the department has been returned to the court under Section 4762 or 4764, or recalled by the court under Section 41103.5, a warrant may then be issued.

SEC. 7. Section 41103.5 of the Vehicle Code is amended to read:

41103.5. (a) Whenever any person has for a period of 15 or more days failed to comply with the provisions of paragraph (2) of Section 41103, the magistrate or clerk of the court shall give notice of such fact to the department if no warrant of arrest is outstanding in connection with the matter. Such notice shall be given not more than 30 days after such failure to appear. Whenever thereafter the case, in which the notice of violation was given pursuant to paragraph (2) of Section 41103, is adjudicated, the magistrate or clerk of the court hearing the case shall immediately sign and file with the department a certificate to that effect.

(b) Whenever a fine or forfeiture is received in connection with a matter for which a notice of noncompliance has been forwarded under this section, the clerk of the court, or judge if there is no clerk, shall determine the amount of the administrative service fee due as established by the department under Section 4763, and shall transmit such amount to the county treasury. The county treasurer shall, at least once each month, transmit the fees collected pursuant to this section to the State Treasury for deposit in the Motor Vehicle Account in the State Transportation Fund. The funds shall be transmitted in the same manner as fines collected for the state by the county.

(c) The procedure for the collection of bail authorized by this section and the provisions of Sections 4760 to 4765, inclusive, shall apply to any registration or equipment infraction charged simultaneously with any parking violation in any notice of violation issued to an unattended vehicle under paragraph (1) of Section 41103.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 805

An act to amend Section 21464 of, and to add Section 25352 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977.]

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

SECTION 1. Section 21464 of the Vehicle Code, as amended by Chapter 1139 of the Statutes of 1976, is amended to read:

21464. (a) No person shall without lawful authority deface, injure, attach any material or substance to, knock down, or remove, nor shall any person shoot at, any official traffic control device, traffic guidepost, traffic signpost, or historical marker placed or erected as authorized or required by law, nor shall any person without such authority deface, injure, attach any material or substance to, or remove, nor shall any person shoot at, any inscription, shield, or insignia on any such device, guide, or marker.

(b) No person shall use, nor shall any vehicle, other than an authorized emergency vehicle, be equipped with, any device capable of sending a signal that interrupts or changes the sequence patterns of an official traffic control signal unless such device or use is authorized by the Department of Transportation pursuant to Section 21350 or by local authorities pursuant to Section 21351.

(c) Any willful violation of subdivision (a) or (b) which results in injury to, or death of, a person shall be punished by imprisonment in the state prison, or imprisonment in a county jail for a period of not more than six months.

SEC. 2. Section 25352 is added to the Vehicle Code, to read:

25352. Any bus operated by a publicly owned transit system on regularly scheduled service may be equipped with a device capable of sending a signal that interrupts or changes the sequence patterns of an official traffic control signal, under the following conditions:

(a) If such a device is a flashing gaseous discharge lamp, such lamp shall not emit a visible light exceeding the amount specified by the California Highway Patrol.

(b) Such device shall not be installed or used unless and until authorized on specific routes by either the Department of Transportation pursuant to Section 21350, or local authorities pursuant to Section 21351.

(c) Any bus or system operating under the conditions specified herein shall allow emergency vehicles operating pursuant to Section 25258 or 21055 to have priority in changing the sequence patterns of an official traffic control signal.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the

Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 806

An act to amend Section 208 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977.]

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

SECTION 1. Section 208 of the Welfare and Institutions Code is amended to read:

208. (a) When any person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit such person to come or remain in contact with such adults.

(b) No person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under Section 290 of the Penal Code and who has been committed to any state hospital or other state facility pursuant to Section 1026 or 1370 of the Penal Code.

(c) As used in this section, "contact" does not include participation in supervised group therapy or other supervised treatment activities, participation in work furlough programs, or participation in hospital recreational activities which are directly supervised by employees of the hospital, so long as living arrangements are strictly segregated and all precautions are taken to prevent unauthorized associations.

CHAPTER 807

An act relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1977 Filed with Secretary of State September 14, 1977]

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

SECTION 1. The Ferndale Elementary School District in Humboldt County maintains one elementary school with an enrollment of approximately 420 pupils. The main classroom building has been examined and found not to comply with the structural standards of the so-called Field Act. Although rehabilitation of the building to bring it up to Field Act standards has been underway for some time, various unanticipated problems prevented the estimated completion date from being met. In accordance with statutory authorization, the State Allocation Board granted an extension for continued usage of the building until June 30, 1977.

Because of the imposition of additional building safety requirements, and the necessity of confining major elements of the rehabilitation project to the summer months when favorable weather conditions exist and the building is not, of necessity, being used for school purposes, it will not be possible to meet the June 30, 1977, deadline for discontinuance of the building. Alternative housing for the school is not available in this rural area.

It is estimated that substantial progress on the seismic resistance phase of the project will be done during the summer of 1977, and that rehabilitation will be completed during the summer of 1979. It is necessary that the main school building continue to be utilized until the rehabilitation is complete, and the Legislature finds that it would be highly disruptive and disadvantageous for the affected pupils, as well as creating a burden on the school district, to require closure of the main classroom building prior to its complete rehabilitation. In enacting this act the Legislature intends to alleviate such unnecessary hardship.

SEC. 2. Notwithstanding Section 39227 of the Education Code, the governing board of the Ferndale Elementary School District may continue to use the main classroom building of the Ferndale Elementary School, together with all structures and facilities essential to the operation of that school, after June 30, 1977; provided, that such building shall not be used for school purposes after June 30, 1979, if reconstruction of the building has not been completed by that date.

SEC. 3. Due to the unique circumstances concerning the reconstruction and rehabilitation of the main building of the Ferndale Elementary School in Humboldt County, as partially set

forth in Section 1 of this act, and the limited nature of the exemption provided for in Section 2 of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 4. The Grizzly Bluff School District maintains an elementary school in a rural area serving 13 pupils. The building housing the school is 107 years old. Various unanticipated problems have prevented the school district from replacing or repairing the building in accordance with the Field Act. Closure of the school and transportation of the pupils to another school would impose such hardships on the school district and the pupils as to make that contingency virtually impossible.

In order to enable the school district to continue to educate pupils attending the elementary school, the governing board of the Grizzly Bluff School District may, notwithstanding Section 39227 of the Education Code, continue to use the elementary school, together with all structures and facilities essential to the operation thereof, until June 30, 1979, or until the replacement or reconstruction of the school, whichever occurs earlier.

Due to the unique circumstances concerning the use of the elementary school herein described, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

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

In order that the two rural elementary schools affected by this act may continue to be used to educate pupils living in the areas served by those schools and not be forced to close by existing statutory deadlines, it is necessary that this act take effect immediately.

SEC. 6. This act shall remain in effect only until July 1, 1979, and on that date is repealed.

CHAPTER 808

An act relating to state-mandated local program reimbursements, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977]

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

SECTION 1. The sum of seven hundred thirty-five thousand one hundred eighty-six dollars ($735,186) is hereby appropriated from the General Fund, in accordance with the following schedule, to provide reimbursement to local agencies for costs mandated by the state as defined in Section 2207 of the Revenue and Taxation Code:

A. To the State Controller for the payment of:

(a) The unreimbursed portion of claims of local agencies which were partially paid by the State Controller for the following legislative mandates:

(1) Chapter 454, Statutes of 1974	$94,550
(2) Chapter 941, Statutes of 1975	330
(3) Chapter 854, Statutes of 1976	34,613

(b) The costs incurred by the County of Los Angeles as a result of the requirement imposed by Chapter 1392, Statutes of 1974 ..... $234,593

B. To the Department of Benefit Payments to reimburse local agencies for the costs which resulted from Chapter 348, Statutes of 1976 ..... $290,100

C. To the Judicial Council to reimburse counties for the costs incurred as a result of their participating in the small claims court pilot project created by the enactment of Chapter 1287 of 1976 ..... $81,000

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In certain cases, the amounts claimed by local agencies as state-mandated costs exceed the amounts appropriated for these purposes. To avoid undue delay in reimbursing local agencies pursuant to Section 2231 of the Revenue and Taxation Code, this act must go into effect immediately.

CHAPTER 809

An act to add Chapter 5.5 (commencing with Section 51880) to Part 28 of the Education Code, relating to health education, and making an appropriation therefor.

[Approved by Governor September 14, 1977. Filed with Secretary of State September 14, 1977.]

I am deleting the appropriation contained in Section 2 of Senate Bill No. 976.

The millions of dollars already available from a multitude of sources make unnecessary the appropriation contained in this bill

With this deletion, I approve Senate Bill No. 976

EDMUND G. BROWN JR., Governor

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

SECTION 1. Chapter 5.5 (commencing with Section 51880) is added to Part 28 of the Education Code, to read:

CHAPTER 5.5. COMPREHENSIVE HEALTH EDUCATION

Article 1. General

51880. This chapter shall be known and may be cited as the Comprehensive Health Education Act of 1977.

51881. The Legislature finds and declares that although many of the communicable diseases and environmental hazards which plagued earlier generations have been controlled, major health problems and hazards are prevalent among today's school-age children and youth including the abuse of alcohol, narcotics, and tobacco; emotional instability; forced marriage; self-medication; dental caries; nutritional disorders; suicide; and accidents.

The Legislature finds and declares that an adequate health education program in the public schools is essential to continued progress and improvement in the quality of public health in this state, and the Legislature further believes that comprehensive health education, taught by properly trained persons, is effective in the prevention of disease and disability.

It is further the intent of the Legislature that, to the maximum extent possible, the present state-funded projects in the school health unit of the Department of Education shall be redirected to carrying out the provisions of this chapter and maximum use shall be made of existing state and federal funds in the implementation of comprehensive health education.

51882. The Legislative Analyst shall report to the Legislature, by April 1, 1979, on the status of the programs provided for by this chapter in terms of the number of participating school districts, materials distributed and developed, the extent of in-service training and participants, trend of the programs, and similar factors.

Article 2. Definitions

51890. For the purposes of this chapter, "comprehensive health education programs" are defined as all educational programs offered in kindergarten and grades 1 through 12, inclusive, in the public school system, including in-class and out-of-class activities designed to ensure that:

(a) Pupils will receive instruction to aid them in making decisions in matters of personal, family, and community health, to include the following subjects:

(1) The use of health care services and products.

(2) Mental and emotional health and development.

(3) Drug use and misuse, including the misuse of tobacco and alcohol.

(4) Family health and child development, including the legal and

financial aspects and responsibilities of marriage and parenthood.

(5) Oral health, vision, and hearing.

(6) Nutrition.

(7) Exercise, rest, and posture.

(8) Diseases and disorders, including sickle cell anemia and related genetic diseases and disorders.

(9) Environmental health and safety.

(10) Community health.

(b) To the maximum extent possible, the instruction in health is structured to provide comprehensive education in health to include all the subjects in subdivision (a).

(c) There is the maximum community participation in the teaching of health including classroom participation by practicing professional health and safety personnel in the community.

(d) Pupils gain appreciation for the importance and value of lifelong health and the need for each individual's personal responsibility for his or her own health.

51891. As used in this chapter, "community participation" means the active participation in the planning, implementation, and evaluation of comprehensive health education by parents, professional practicing health care and public safety personnel, and public and private health care and service agencies.

Article 3. Department of Education

51900. The Department of Education shall prepare and distribute to school districts guidelines for the preparation of comprehensive health education plans no later than March 30, 1978, and in cooperation with those county offices of education which desire to participate, shall assist school districts in developing comprehensive health education plans and programs and for this purpose shall assume the following functions and carry out the following duties:

(a) Assist in the development of model curricula for the public schools for comprehensive health education programs consistent with the provisions and intent of approved district comprehensive health education plans.

(b) Identify innovative teaching methods for the instruction in health in the public schools.

(c) With the cooperation and assistance of the State Department of Health, develop methods of evaluating the effectiveness of instruction in health.

(d) Develop model instructional materials for comprehensive health education courses and make these materials available to local school districts.

(e) In cooperation with the Commission on Teaching Preparation and Licensing, assist teacher training institutions in development of courses on comprehensive health education.

(f) Assist in the development of adult education programs which

include parents, students, and community health agencies and personnel.

(g) With the cooperation of, and assistance of, the qualified instructional staffs of state-supported public institutions of higher education, develop and establish a health education training program for public school teachers and administrators to provide in-service training at the local district or regional level.

51901. The Department of Education shall be responsible for the preparation and distribution of health education materials and for providing assistance for in-service teaching programs carried out with districts that have plans approved pursuant to Section 51911.

Article 4. Comprehensive Health Education Plans

51910. Each school district that wishes to receive reimbursement for in-service teacher training provided in accordance with Section 51920 shall submit to the Department of Education for review and approval a plan for a comprehensive health education program. The governing board of the school district shall seek direct community, parent, and teacher involvement and participation in the development and implementation of the plan, including the cooperation and assistance of the qualified instructional staffs of state-supported public institutions of higher education.

51911. Approval of district plans shall be made in accordance with rules and regulations adopted by the State Board of Education.

51912. The governing boards of any two or more school districts, with the approval of the Department of Education, may develop and submit for approval a joint plan for a comprehensive health education program.

51913. The plan for a comprehensive health education program shall include a statement setting forth the district's educational program for health education on a district basis. The State Board of Education shall establish standards and criteria to be used in the evaluation of plans submitted by school districts. Such standards and criteria for review and approval of plans by the State Board of Education shall include, but not be limited to, provision for:

(a) Assessment of the health educational needs of the pupils.

(b) Defined and measurable program objectives and methods of assessing the effectiveness of the program.

(c) Coordination of all district resources with the objectives of the plan.

(d) Utilization of health care professionals; local public and private health, safety, and community service agencies; and other appropriate community resources in the development and implementation of the plan.

(e) Direct participation of health care professionals, and local public and private health, safety, and community services agencies in the course evaluation.

(f) Staff development and in-service training.

(g) Evaluation of the program by the governing board of the school district with the assistance of administrators, teachers, parents, pupils, and participants in the program from the community.

51914. No plan shall be approved by the State Board of Education unless it determines that the plan was developed with the active cooperation of parents, community, and teachers, in all stages of planning, approval, and implementation of the plan.

51915. In the development of a plan for a comprehensive health education program, the governing board of a school district may include in such plan the employment of the following as resource persons, with or without compensation: (a) licensed physicians and surgeons, school or public health nurses, county health officers, optometrists, dentists, and other persons licensed by the state to practice in allied health professions, and other persons recognized by the governing board as being experts in the health sciences.

Article 5. In-Service Training

51920. The Department of Education shall reimburse all school certificated personnel from those school districts in which the governing board has adopted a comprehensive health education plan approved by the Department of Education according to this chapter for necessary travel and expenses resulting from participation in health education in-service training programs sponsored by the department.

When training is held during the time that the certificated personnel are employed in teaching, their regular pay shall not be diminished by reason of their attendance.

Reimbursements shall not include the cost of hiring substitute classroom teaching personnel.

51921. School district governing boards may, at their discretion, assign units of credit for participation in in-service training programs undertaken pursuant to this chapter and such units may be included as units of credit for purposes of the salary schedule of the school district.

SEC. 2. There is hereby appropriated from the General Fund in the State Treasury to the Department of Education, the sum of one hundred thousand dollars ($100,000) to administer and carry out the provisions of Chapter 5.5 (commencing with Section 51880) of Part 28 of the Education Code as needed and without regard to fiscal years.

CHAPTER 810

An act to add and repeal Section 33447 of the Health and Safety Code, relating to redevelopment.

[Became law without Governor's signature September 15, 1977. Filed with Secretary of State September 15, 1977.]

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

SECTION 1. Section 33447 is added to the Health and Safety Code, to read:

33447. In addition to any other authority contained in this division, taxes levied in a project area and allocated to the agency as provided in subdivision (b) of Section 33670 may be used as provided thereby anywhere within the territorial jurisdiction of the agency to finance the construction or acquisition of public improvements meeting the following criteria, as determined by resolution of the agency:

(a) The public improvements will enhance the environment of a residential neighborhood containing housing for persons and families of low or moderate income, as defined in Section 41056, including very low-income households, as defined in Section 41067.

(b) The public improvements will be of benefit to the project area. Such determination shall be final and conclusive as to the issue of benefit to the project area.

(c) Public improvements eligible for financing under this section shall be limited to the following:

(1) Street improvements.

(2) Water, sewer, and storm drainage facilities.

(3) Neighborhood parks and related recreational facilities.

This section shall be applicable to redevelopment projects within the City of Paramount for which the redevelopment plan authorizes tax-increment financing pursuant to Section 33670, whether the redevelopment plan is adopted prior or subsequent to January 1, 1978. Financing of public improvements pursuant to this section shall be authorized by the redevelopment plan or by resolution of the agency. Any ordinance or resolution implementing this section shall be adopted on or before December 31, 1980, and shall specify the public improvements to be financed thereunder.

The Legislature finds and declares that effective redevelopment within the City of Paramount requires the existence of adequate public services and facilities for persons residing in the surrounding community, including persons employed by industry which is located in a redevelopment project, and that public improvements of the types specified in this section are particularly needed in the low- and moderate-income neighborhoods of the City of Paramount in order to encourage stability and prevent decline which could have serious negative impact on redevelopment, as well as necessitate additional redevelopment. Because of the unusually compelling

need in the City of Paramount and because of the impracticability of financing all required improvements by other means, it is the intent of the Legislature in enacting this section to temporarily augment the powers of the redevelopment agency of the City of Paramount to permit the use of tax-increment revenues in the manner, and for the purposes prescribed by this section.

This section shall remain in effect only until January 1, 1981, and on such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date. However, the repeal of this section on such date shall not affect the validity of any ordinance or resolution adopted prior thereto as provided in this section, and shall not affect the validity of any bonds issued pursuant to such ordinance or resolution, or of any pledge pursuant to Section 33671 of tax revenues to accrue on or after such date.

CHAPTER 811

An act to amend Section 74001.5 of the Government Code, relating to courts.

[Became law without Governor's signature September 15, 1977
Filed with Secretary of State September 15, 1977]

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

SECTION 1. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the West Orange County Judicial District and the Orange County Harbor Judicial District may appoint one court commissioner for each district. Such appointment by the judges of the Orange County Harbor Judicial District may only be made in lieu of appointing a traffic referee or traffic trial commissioner pursuant to Sections 72400 and 72450, respectively. The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioner shall be ex officio deputy clerk of the court and shall be a member of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioner shall not engage in the private practice of law.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the

program specified in this act.

CHAPTER 812

An act to add Section 20022.3 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 20022.3 is added to the Government Code, to read:

20022.3. Notwithstanding any other provision of this part, compensation includes salary withheld by the employer in accordance with Section 45165 of the Education Code, which provides for continuation of salary payments during a period in which the member renders no service. Such withheld salary shall be reported as earned.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because local agencies may adjust administrative action and thereby preclude any increase in cost.

CHAPTER 813

An act to amend Sections 987.53, 987.65, and 987.71 of the Military and Veterans Code, relating to veterans' farm and home purchase, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 987.53 of the Military and Veterans Code is amended to read:

987.53. (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as

defined in subdivision (k) of this section.

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode. A condominium may include in addition a separate interest in other portions of such real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

SEC. 2. Section 987.65 of the Military and Veterans Code is amended to read:

987.65. The purchase price of a home to the department shall not exceed the sum of forty-three thousand dollars ($43,000), except that the purchase price of a mobilehome, as defined in subdivision (k) of Section 987.53, to the department shall not exceed thirty thousand dollars ($30,000), and a veteran purchasing the home may advance, subject to the provisions of Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 987.69 of this code to add to the purchase price of the home in fixing the selling price thereof to the veteran. Any amount of the purchase price to the department may be

provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred twenty thousand dollars ($120,000), and a veteran purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 987.69 of this code to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran.

SEC. 3. Section 987.71 of the Military and Veterans Code is amended to read:

987.71. The purchaser shall make an initial payment of at least 5 percent of the selling price of the property. Purchasers of homes where the purchase price is equal to or less than thirty-five thousand dollars ($35,000) shall make an initial payment of at least 3 percent of the selling price of the property. The department may waive the initial payment in any case where the value of the property as determined by the department appraisal shall equal the amount to be paid by the department plus at least 5 percent where the purchase price is greater than thirty-five thousand dollars ($35,000). In the case of homes where the purchase price is equal to or less than thirty-five thousand dollars ($35,000), the department may waive the initial payment where the value of the property as determined by the department appraisal equals the amount to be paid by the department plus at least 3 percent. The balance of the purchase price may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes, but not exceeding 25 years for mobilehomes, together with interest thereon at the rate as determined by the department pursuant to Section 987.87 for such amortization purposes. The purchaser on any installment date may pay any or all installments still remaining unpaid. In any individual case the department may for good cause postpone from time to time upon terms as the department deems proper, the payment of the whole or any part of any installment of the purchase price or interest thereon. Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and such amount as may be required by any covenant or provision contained in any resolution of issuance.

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

The median price of conventional homes within the state has risen to such a degree that many potential beneficiaries of the Cal-Vet loan program have been priced out of the housing market. In order that the benefits of this act shall be available to veterans as soon as possible, this act must take effect immediately.

CHAPTER 814

An act making an appropriation to pay the claim of Betty Riddle, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. The sum of one hundred sixty thousand dollars ($160,000) is hereby appropriated from the General Fund to the Department of Justice for the payment of the claim of Betty Riddle against the State of California arising out of the death of her husband.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to pay the claim of Betty Riddle and end a hardship to this person and her family as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 815

An act to amend Sections 1269, 1270, and 1300 of, and to add Sections 1209.1 and 1260.1 to, the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 1209.1 is added to the Business and Professions Code, to read:

1209.1. As used in this chapter "histocompatibility laboratory director" means any person who is (a) a duly licensed physician, (b) a bioanalyst, or (c) a person who has earned a doctoral degree in a biological science and has completed subsequent to graduation four years of experience in immunology, two of which have been in histocompatibility testing. He or she shall direct only those laboratories whose clinical function is limited to histocompatibility testing, and he or she shall have the same responsibilities for administering such a laboratory under this act as does a laboratory director.

SEC. 2. Section 1260.1 is added to the Business and Professions Code, to read:

1260.1. The board shall issue a histocompatibility laboratory director's license to each person who meets the qualifications

specified in Section 1209.1.

SEC. 3. Section 1269 of the Business and Professions Code is amended to read:

1269. The board shall establish by regulation the limited laboratory activities in which unlicensed laboratory personnel including, but not limited to, laboratory aides, histocompatibility technicians, cardiopulmonary technicians, and isotope technicians, working in clinical laboratories may engage and shall establish the extent of supervision required and the minimum qualifications to be met by such persons. Persons engaged in such activities shall do so only under the supervision of a licensed technologist, or person duly authorized to direct a laboratory, who is functioning as a technologist. Before such persons are permitted to perform tests, they shall satisfactorily demonstrate their ability to do so in accordance with procedures prescribed by the department.

SEC. 4. Section 1270 of the Business and Professions Code is amended to read:

1270. Persons engaging in cytotechnology shall meet standards established by the department. Such persons may perform the necessary procedures relating to the preliminary evaluation of cellular material only under the supervision of a person duly authorized to direct a laboratory. Before such persons are permitted to perform cytologic examinations, they shall satisfactorily demonstrate their ability to do so in accordance with procedures prescribed by the department.

SEC. 5. Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application and license fee under this chapter shall be as follows:

(a) The application fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license is twenty-five dollars ($25).

(b) The annual renewal fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license shall be fixed by the board at an amount not to exceed twenty-five dollars ($25).

(c) The application fee for a clinical laboratory technologist's or limited technologist's license is fifteen dollars ($15).

(d) The annual renewal fee for a clinical laboratory technologist's or limited technologist's license shall be fixed by the board at an amount not to exceed ten dollars ($10).

(e) The application fee for a clinical laboratory license is one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county or city and county, or an official thereof, no fee shall be required.

(f) The annual renewal fee for a clinical laboratory license shall be fixed by the board at an amount not to exceed one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county, or city and

county, or official thereof, no fee shall be required.

(g) The application fee for a trainee's license is five dollars ($5).

(h) The annual renewal fee for a trainee's license is three dollars ($3).

(i) The application fee for a duplicate license is two dollars ($2).

(j) The delinquency fee is ten dollars ($10).

CHAPTER 816

An act to add Section 17259.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 17259.1 is added to the Revenue and Taxation Code, to read:

17259.1. (a) In lieu of the deduction provided in Section 17259, there shall be allowed as a deduction in computing taxable income, except as limited under subdivisions (b), (c), (d) and (e), any expenses paid or incurred by the taxpayer or the taxpayer's spouse in connection with the adoption of a "hard to place" child by them. Such expenses include any medical and hospital expenses of the mother of an adopted "hard to place" child which are an incident to the child's birth and any welfare agency, legal and other fees or costs relating to the adoption.

(b) The maximum deduction in a joint return filed by a husband and wife for such adoption expenses shall not exceed one thousand dollars ($1,000).

(c) The maximum deduction in a separate return filed by a married taxpayer for such adoption expenses shall not exceed five hundred dollars ($500).

(d) The maximum deduction in a return filed by an unmarried taxpayer filing as a single person or as a head of household for such adoption expenses shall not exceed one thousand dollars ($1,000).

(e) This deduction shall not apply to expenses incurred in connection with the adoption of any stepchild of the taxpayer or the taxpayer's spouse.

(f) For purposes of this section, a "hard to place" child is defined in Section 16116 of the Welfare and Institutions Code.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the

calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 817

An act to add Section 789.5c to the Civil Code, relating to mobilehome park tenancies.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 789.5c is added to the Civil Code, to read:

789.5c. (a) Prior to the creation or renewal of any tenancy in a mobilehome park, the ownership or management shall furnish each prospective tenant with a written rental agreement which shall contain, in addition to those provisions required or permitted by law to be included, all of the following:

(1) A provision specifying that it is the responsibility of the ownership to provide and maintain physical improvements in the common facilities in good working order and condition.

(2) A description of the physical improvements to be provided the tenant during the period of tenancy.

(3) A provision listing these services which will be provided at the time the lease or rental agreement is executed and which will continue to be offered for the period of tenancy.

(4) A provision specifying that the ownership shall, after having provided all tenants with 10 days' written notice of the matters to be discussed, meet and consult with the tenants, either individually or collectively, on the following matters regarding general park operation:

(i) Amendments to park rules and regulations.

(ii) The standards for maintenance of physical improvements in the park.

(iii) The addition, alteration, or deletion of services, equipment, or physical improvements.

(b) A tenant may commence an action to enforce the provisions of this section or to recover damages for the breach of any provisions of the rental agreement by the ownership.

CHAPTER 818

An act to add and repeal Section 25209.6 of, and to amend Sections 1345, 1350, 1351, 1355, 1368, 1369, 1375, 1375.1, 1376, 1386, 1387, 1396, and 1399 of, and to add Sections 1350.1, 1351.2, 1367.1, 1375.2, and 1399.1 to, the Government Code, relating to health care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 25209.6 is added to the Government Code, to read:

25209.6. The board of supervisors may contract on behalf of the county to participate as a health maintenance organization in Section 1876 of the Social Security Act (Public Law 92-603, Section 226), or Section 300(e) of Title 42 of the United States Code, or any other health maintenance organization provision under Title 18 or 19 of the Social Security Act, or any or all of such provisions, and to provide to its enrollees services in addition to those described in subsection (c), as provided in subsection (g) of Section 1876, including the authorization of the expenditure by the county of whatever funds may be required therefor.

This section shall remain in effect only until July 1, 1979, and as of such date is repealed unless a later enacted statute which is chaptered on or before that date deletes or extends such date.

SEC. 2. Section 1345 of the Health and Safety Code is amended to read:

1345. As used in this chapter:

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts.

(b) "Basic health care services" means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Home health services.

(5) Preventive health services.

(6) Emergency health care services, including ambulance services and out-of-area coverage.

(c) "Enrollee" means a person who is enrolled in a plan and who is a recipient of services from the plan.

(d) "Evidence of coverage" means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or

enrollee setting forth the coverage to which the subscriber or enrollee is entitled.

(e) "Group contract" means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) "Health care service plan" means any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees, and who does not substantially indemnify subscribers or enrollees for the cost of provided services.

(g) "License" means, and "licensed" refers to, a license as a plan pursuant to Section 1353 and, until September 30, 1978, unless extended by the commissioner, a transitional license as a plan pursuant to Section 1350, unless the term refers to a solicitor or solicitor firm license issued pursuant to Section 1358, or unless the context otherwise provides.

(h) "Provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(i) "Person" means any person, individual, firm, association, organization, partnership, business trust, foundation, labor organization, or corporation, public agency, or political subdivision of the state.

(j) "Service area" means a geographical area designated by the plan within which a plan shall provide health care services.

(k) "Solicitation" means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(*l*) "Solicitor" means any person who, for compensation paid directly or indirectly by a plan, engages in the acts defined in subdivision (k) of this section. "Solicitor" does not include a person who is an officer, director, or partner of a solicitor firm licensed under the provisions of Section 1357, and who does not receive compensation specifically related to the sale of subscriptions or enrollments to a plan, and also does not include a sole proprietor licensed as a solicitor firm.

(m) "Solicitor firm" means any person, other than a plan, who through one or more solicitors engages in the acts defined in subdivision (k) of this section.

(n) "Specialized health care service plan contract" means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees, and which does not substantially indemnify subscribers or enrollees for the cost of provided services.

(o) "Subscriber" means the person who is responsible for

payment to a plan or whose employment or other status, except for family dependency, is the basis for eligibility for membership in the plan.

(p) "Subsequent provider" means the person who agrees to provide the subscriber or enrollee coverage upon failure, suspension, or revocation of the plan to which the subscriber or enrollee originally belonged.

(q) Unless the context indicates otherwise, "plan" refers to health care service plans and specialized health care service plans.

(r) "Plan contract" means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts.

(s) "Transitional license" means a license required by Section 1350 and issued by the commissioner on October 1, 1977, to a plan which was registered on June 30, 1976, under the Knox-Mills Health Plan Act and which timely filed an application for licensing as a plan under this chapter. No findings are made by the commissioner as a condition precedent to the issuance of a transitional license. Such license expires on September 30, 1978, unless such expiration date is extended by the commissioner.

(t) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject to any specific requirement imposed by this chapter or by the commissioner.

SEC. 3. Section 1350 of the Health and Safety Code is amended to read:

1350. (a) Every plan not exempted from this chapter which on June 30, 1976, is registered under the Knox-Mills Health Plan Act as in effect prior to July 1, 1976, shall promptly notify the commissioner of its intention to seek licensing under this chapter and shall file an application for licensing as a plan by September 30, 1976. Each such plan may continue to operate under the provisions of the Knox-Mills Health Plan Act as in effect prior to July 1, 1976, until September 30, 1977. However, such plans shall not be subject to the assessment or reregistration pursuant to the provisions of former Sections 12538 or 12538.4 of the Government Code and shall be subject to the provisions respecting reporting which are contained in Sections 1371 and 1383 and subdivisions (a), (d), (e), and (f) of Section 1384.

On October 1, 1977, the commissioner shall issue to each such plan, other than a plan whose application for a license pursuant to Section 1353 has been previously granted or denied or a plan which has ceased operations as of such date, a transitional license which shall expire on September 30, 1978, unless such expiration date is extended

by the commissioner in order to permit additional time for processing applications. No findings shall be made by the commissioner as a condition precedent to the issuance of a transitional license. On approval by the commissioner of a plan's application for license and the issuance to such plan of a license by the commissioner pursuant to Section 1353, such plan's transitional license shall be summarily revoked.

(b) If an application filed pursuant to subdivision (a) is denied, the commissioner shall give notice thereof as provided in Section 1354 and the plan shall not, after receipt of such notice, solicit or receive further enrollment or subscription pursuant to its transitional license or otherwise unless and until such order of denial is revoked or set aside. Within 30 days after the date of mailing of such notice, the plan shall either cease operations in this state at which time its transitional license shall be summarily revoked by the commissioner or request a hearing pursuant to Section 1354, such hearing to commence within 15 business days after receipt of such request unless the plan and the commissioner consent in writing to a later date. If, after hearing, the denial of the application is affirmed by the commissioner, such plan shall cease operations in this state within 15 days after the date of such order and its transitional license shall be summarily revoked. Thereafter, such plan shall be subject in all respects to the provisions of this chapter and may no longer continue to operate under the provisions of any transitional license previously issued to such plan. If an application filed pursuant to subdivision (a) is abandoned or withdrawn or if a plan otherwise ceases operations, the commissioner shall summarily revoke the transitional license previously issued to such plan.

(c) On and after July 1, 1976, all administrative powers exercised by the Attorney General under the terms and provisions of the Knox-Mills Health Plan Act shall be exercised by the commissioner under the provisions of this section, and the Attorney General shall act as attorney for the commissioner except that the Attorney General may continue all civil or administrative proceedings initiated by the Attorney General prior to such date.

(d) Upon filing its application as provided in subdivision (a), each plan shall pay the application fee prescribed by subdivision (a) of Section 1356. In addition, each plan shall be subject to assessment as provided for in subdivision (b) of Section 1356

SEC. 4. Section 1350.1 is added to the Health and Safety Code, to read:

1350.1. Transitionally licensed plans shall be subject to all provisions of this chapter, including but not limited to Sections 1356, 1380, and 1382, except as otherwise expressly provided.

SEC. 5. Section 1351 of the Health and Safety Code is amended to read:

1351. Each application for licensure as a health care service plan or specialized health care service plan under this chapter shall be verified by an authorized representative of the applicant, and shall

be in a form prescribed by the department. Such application shall be accompanied by the fee prescribed by subdivision (a) of Section 1356 and shall set forth or be accompanied by each and all of the following:

(a) The basic organizational documents of the applicant; such as, the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all amendments thereto.

(b) A copy of the bylaws, rules and regulations, or similar documents regulating the conduct of the internal affairs of the applicant.

(c) A list of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, which shall include among others, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers, each shareholder with over 5-percent interest in the case of a corporation, and all partners or members in the case of a partnership or association, and each person who has loaned funds to the applicant for the operation of its business.

(d) A copy of any contract made, or to be made, between the applicant and any provider of health care services, or persons listed in subdivision (c), or any other person or organization agreeing to perform an administrative function or service for the plan. The commissioner by rule may identify contracts excluded from this requirement and make provision for the submission of form contracts. The payment rendered or to be rendered to such provider of health care services shall be deemed confidential information that shall not be divulged by the commissioner, except that such payment may be disclosed and become a public record in any legislative, administrative, or judicial proceeding or inquiry. The plan shall also submit the name and address of each physician employed by or contracting with the plan, together with his or her license number.

(e) A statement describing the plan, its method of providing for health care services and its physical facilities. If applicable, this statement shall include the health care delivery capabilities of the plan including the number of full-time and part-time primary physicians, the number of full-time and part-time and specialties of all nonprimary physicians; the numbers and types of licensed or state-certified health care support staff, the number of hospital beds contracted for, and the arrangements and the methods by which health care services will be provided. For purposes of this subdivision, primary physicians include general and family practitioners, internists, pediatricians, obstetricians, and gynecologists.

(f) A copy of the forms of evidence of coverage and of the disclosure forms or material which are to be issued to subscribers or enrollees of the plan.

(g) A copy of the form of the individual contract which is to be issued to individual subscribers and the form of group contract which

is to be issued to any employers, unions, trustees, or other organizations.

(h) Financial statements accompanied by a report, certificate, or opinion of an independent certified public accountant.

(i) A description of the proposed method of marketing the plan and a copy of any contract made with any person to solicit on behalf of the plan or a copy of the form of agreement used and a list of the contracting parties.

(j) A power of attorney duly executed by any applicant, not domiciled in this state, appointing the commissioner the true and lawful attorney in fact of such applicant in this state for the purposes of service of all lawful process in any legal action or proceeding against the plan on a cause of action arising in this state.

(k) A statement describing the service area or areas to be served, including the service location for each provider rendering professional services on behalf of the plan and the location of any other plan facilities where required by the commissioner.

(*l*) A description of enrollee-subscriber grievance procedures to be utilized as required by this chapter, and a copy of the form specified by subdivision (c) of Section 1368.

(m) A description of the procedures and programs for internal review of the quality of health care pursuant to the requirements set forth in this chapter.

(n) A description of the mechanism by which enrollees and subscribers will be afforded an opportunity to express their views on matters relating to the policy and operation of the plan.

(o) On and after the date required by Section 1375, an agreement with an insurer, a health facility or medical service corporation, or a licensed health care service plan or specialized health care service plan, or a governmental organization to provide the payment of the cost of the originally contracted health care services or to provide the originally contracted health care services in the event of failure, suspension, or revocation of the plan or a showing that the plan meets the requirements of subdivision (d) of Section 1375.

(p) Evidence of adequate insurance coverage or self-insurance to respond to claims for damages arising out of the furnishing of health care services.

(q) Evidence of adequate insurance coverage or self-insurance to protect against losses of facilities where required by the commissioner.

(r) If required by the commissioner by rule pursuant to Section 1376, a fidelity bond or a surety bond in the amount prescribed.

(s) Evidence of adequate workmen's compensation insurance coverage to protect against claims arising out of work-related injuries that might be brought by the employees and staff of a plan against the plan.

(t) Such other information as the commissioner may reasonably require.

SEC. 6. Section 1351.2 is added to the Health and Safety Code, to read:

1351.2. On written notice to a plan, the commissioner shall summarily revoke a plan's transitional license for failure of such plan to make a bona fide written response to a written request for information by the commissioner within such reasonable time period as has been communicated to the plan by the commissioner. A bona fide written response for the purposes of this section shall be defined as the submission by the plan of information which has been reasonably requested by the commissioner to enable the commissioner to process such plan's application for a license or to make the determination referred to in Section 1353.

SEC. 7. Section 1355 of the Health and Safety Code is amended to read:

1355. Every plan's license issued under this chapter shall remain in effect until revoked or suspended by the commissioner, except that every transitional license shall expire on September 30, 1978, unless such expiration date is extended by the commissioner.

SEC. 8. Section 1367.1 is added to the Health and Safety Code, to read:

1367.1. Subdivision (i) of Section 1367 shall apply to transitionally licensed plans only insofar as it relates to contracts entered into, amended, delivered, or renewed in this state on or after October 1, 1977.

SEC. 9. Section 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations which shall insure adequate consideration of enrollee grievances and rectification when appropriate.

(b) Every plan shall inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. Such information shall include the location and telephone number where grievances may be submitted.

(c) Every plan shall provide forms for complaints to be given to subscribers and enrollees who wish to register written complaints. The forms used by plans licensed pursuant to Section 1353 shall be approved by the commissioner in advance as to format.

(d) The plan shall keep in its files all copies of complaints, and the responses thereto, for a period of five years.

SEC. 10. Section 1369 of the Health and Safety Code is amended to read:

1369. Every plan licensed pursuant to Section 1353 shall establish procedures to permit subscribers and enrollees to participate in establishing the public policy of the plan. For purposes of this section, public policy means acts performed by a plan or its employees and staff to assure the comfort, dignity, and convenience of patients who

rely on the plan's facilities to provide health care services to them, their families, and the public.

Compliance with the requirements of the Health Maintenance Organization Act of 1973 (42 U.S.C. § 300e et seq.) shall be deemed sufficient compliance with this section.

SEC. 11. Section 1375 of the Health and Safety Code is amended to read:

1375. (a) Except as provided in subdivision (d) or (e), on and after one year from the effective date of amendments to this section enacted during the first half of the 1977–78 Regular Session of the Legislature, every plan shall maintain an agreement, held unobjectionable by the commissioner, with an unrelated subsequent provider who may be an insurer, a health facility or medical service corporation, another licensed plan, or a governmental organization to provide the payment of the cost of the originally contracted health care service or to provide the originally contracted health care service in the event the plan ceases to do business, because of business failure, suspension of or revocation of its license, or any other reason. For purposes of this section, "unrelated subsequent provider" means a person who is not, directly or indirectly, controlled by, under common control with, or in control of the plan or of any officer, director, employee, or person providing financial support of the plan. Upon a finding by the commissioner that the purposes of this chapter and the public interest are fully served, the commissioner may waive the requirement that the subsequent provider shall be an unrelated entity.

(b) In the event of failure, suspension or revocation of a plan, the subsequent provider shall, at least 15 days prior to cessation of operation, notify in writing, all subscribers and enrollees as to such cessation and as to the manner in which health care services will be paid for or provided to them after the cessation date by the subsequent provider.

(c) The requirement of a subsequent provider of health care services to subscribers and enrollees in the event of a discontinuance of services may be satisfied by an agreement between two or more plans licensed under this chapter. Such agreement shall be expressly approved by the commissioner, if the commissioner finds that:

(1) Each plan has the financial resources to meet such an obligation.

(2) Each plan has facilities sufficiently close to the service area of the other to minimize inconvenience to subscribers and enrollees of the nonfunctioning plan.

(3) Each plan has the personnel available, or can obtain the personnel, to provide adequate services to the subscribers and enrollees of the nonfunctioning plan.

(d) After five continuous years of active operation, a plan may apply to the commissioner for an exemption from the requirements of subdivision (a). Any plan certified under Article 2.5 (commencing with Section 12530) of Chapter 6 of Part 2 of Division 3 of the

Government Code prior to its repeal shall be able to count its years of continuous operation under Article 2.5 toward the exemption requirements of this subdivision. The commissioner shall grant such an exemption if the commissioner finds upon application that:

(1) In the case of a plan certified under Article 2.5 (commencing with Section 12530) of Chapter 6 of Part 2 of Division 3 of the Government Code prior to its repeal, the plan has continuously maintained for the preceding 12-month period a tangible net equity of not less than seven hundred fifty thousand dollars ($750,000). The commissioner may waive the provisions of this paragraph if the commissioner finds such action to be in the public interest.

(2) The plan has not been found to be significantly in violation of the fiscal requirements of this chapter in the preceding two years.

(3) The commissioner specifically finds that the operation of the plan is such that the subscribers and enrollees are protected from the likelihood of the plan's failure.

(e) A plan which meets the requirements of Section 1375.1 may apply to the commissioner for an exemption from the requirement of subdivision (a)

(f) If after having been granted the exemption contained in subdivision (d) or (e), the plan fails to meet the requirements of the exemption, the provisions of subdivision (a) shall be reapplied by the commissioner following a hearing.

(g) Upon denial of the application, the commissioner shall notify the applicant in writing, stating the reasons for the denial and that the applicant has the right to a hearing if the applicant makes a written request within 30 days after the date of the mailing of the notice of denial.

SEC. 12. Section 1375.1 of the Health and Safety Code is amended to read:

1375.1. (a) Every plan licensed pursuant to Section 1353 shall have and shall demonstrate to the commissioner that it has:

(1) A fiscally sound operation and adequate provision against the risk of insolvency; and

(2) Assumed full financial risk on a prospective basis for the provision of covered health care services, except that a plan may obtain insurance or make other arrangements for the cost of providing to any subscriber or enrollee covered health care services, the aggregate value of which exceeds five thousand dollars ($5,000) in any year, for the cost of covered health care services provided to its members other than through the plan because medical necessity required their provision before they could be secured through the plan, and for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year.

(b) In determining whether the conditions of this section have been met, the commissioner shall consider, but not be limited to, the following:

(1) The financial soundness of the plan's arrangements for health

care services and the schedule of rates and charges used by the plan.

(2) The adequacy of working capital.

(3) Agreements with providers for the provision of health care services.

(c) For the purposes of this section, "covered health care services" means health care services provided under all plan contracts.

SEC. 13. Section 1375.2 is added to the Health and Safety Code, to read:

1375.2. On and after October 1, 1977, every plan operating under a transitional license shall have a fiscally sound operation.

SEC. 14. Section 1376 of the Health and Safety Code is amended to read:

1376. (a) No plan or solicitor firm shall conduct any activity regulated by this chapter in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of plans, subscribers, and enrollees to provide safeguards with respect to the financial responsibility of plans and solicitor firms. Such rules and regulations may require a minimum capital or net worth, limitations on indebtedness, procedures for the handling of funds or assets, including segregation of funds, assets and net worth, the maintenance of appropriate insurance and a fidelity bond, and the maintenance of a surety bond in an amount not exceeding ten thousand dollars ($10,000).

(b) The surety bond referred to in subdivision (a) shall be conditioned upon compliance by the licensee with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter and orders issued under this chapter. Such bond, unless previously canceled, shall apply to the entire period that the license is in effect. Every surety bond shall provide that no suit may be maintained to enforce any liability thereon unless brought within two years after the act upon which such suit is based, and shall also provide that the liability of the surety on such bond to all persons aggrieved shall, in no event, exceed in the aggregate the amount thereof. Every such bond shall also contain a provision authorizing the surety thereon to cancel the bond upon 30 days' written notice to the licensee and to the commissioner; except that such cancellation shall not affect any liability incurred or accrued prior to the effective date of such cancellation.

(c) Any appropriate deposits of cash or securities shall be accepted in lieu of the surety bond required pursuant to subdivision (a).

(d) For purposes of computing any minimum capital requirement which may be prescribed by the rules and regulations of the commissioner under subdivision (a), any operating cost assistance or direct loan made to a plan by the United States Department of Health, Education and Welfare pursuant to Public Law 93-222, as amended, shall be treated as a subordinated loan,

notwithstanding any express terms thereof to the contrary.

SEC. 15. Section 1386 of the Health and Safety Code is amended to read:

1386. (a) The commissioner may suspend or revoke any license issued under this chapter to a health care service plan or assess civil penalties if the commissioner determines that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the commissioner.

(1) The plan is operating at variance with the basic organizational documents as filed pursuant to Section 1351 or 1352, or with its published plan, or in any manner contrary to that described in, and reasonably inferred, from the plan as contained in its application for licensure and annual report, or any modification thereof, unless amendments allowing such variation have been submitted to, and approved by, the commissioner.

(2) The plan has issued evidence of coverage or uses a schedule of charges for health care services which do not comply with those published in the latest evidence of coverage found unobjectionable by the commissioner.

(3) The health care service plan does not provide basic health care services to its enrollees and subscribers as set forth in the evidence of coverage. This subdivision shall not apply to specialized health care service plan contracts.

(4) The plan is no longer able to meet the standards set forth in Article 5 (commencing with Section 1369).

(5) The continued operation of the plan will constitute a substantial risk to its subscribers and enrollees.

(6) The plan has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter or any rule or regulation adopted by the commissioner pursuant to this chapter.

(7) The plan has engaged in any conduct which constitutes fraud or dishonest dealing or unfair business practice as defined by Section 3369 of the Civil Code.

(8) The plan has permitted, or aided or abetted any violation by an employee or contractor who is a holder of any certificate, license, permit, registration or exemption issued pursuant to the Business and Professions Code, or the Health and Safety Code which would constitute grounds for discipline against such certificate, license, permit, registration, or exemption.

(9) The plan has aided or abetted or permitted the commission of any illegal act

(10) The engagement of a person as an officer, director, associate, or provider of the plan contrary to the provisions of an order issued by the commissioner pursuant to subdivision (c).

(11) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person

occupying a principal management or supervisory position in such plan, management company or affiliate, has been convicted of either a misdemeanor involving moral turpitude or a felony and the commissioner finds that the misdemeanor or felony is reasonably related to the administration of the law. A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction within the meaning of this subdivision. The commissioner may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) The commissioner may prohibit any person from serving as an officer, director, associate, or provider of any plan if such person was an officer, director, associate, or provider of a plan whose license has been suspended or revoked pursuant to this section and such person had knowledge of, or participated in, any of the prohibited acts for which such license was suspended or revoked. A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to notice and hearing to the person affected in accordance with the provisions of subdivision (a) of Section 1397.

SEC. 16. Section 1387 of the Health and Safety Code is amended to read:

1387. (a) In addition to suspension or revocation of a license issued under this chapter, the commissioner may levy any civil penalty. The civil penalty may be in lieu of, or in addition to, the penalties of suspension or revocation.

(b) The amount of the civil penalty may not be less than one hundred dollars ($100) nor more than two thousand five hundred dollars ($2,500) for each violation of this chapter.

SEC. 17. Section 1396 of the Health and Safety Code is amended to read:

1396 (a) All entities registered and operating under the Knox-Mills Health Plan Act as of June 30, 1976, shall be licensed under this chapter provided they meet all provisions of this chapter other than Section 1343(a).

(b) Those entities so licensed who are substantially engaged in providing health care services by means of indemnification payments made to noncontracting health providers, shall reduce the gross percentage of said indemnity payments to a level in compliance with the provisions of Section 1343(a) of this chapter, within three years of the latest approved registration.

SEC. 18. Section 1399 of the Health and Safety Code is amended to read:

1399. (a) Surrender of a license as a health plan, solicitor, or solicitor firm, becomes effective 30 days after receipt of an application to surrender such license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the

surrender is instituted within 30 days after the application is filed. If such a proceeding is pending or instituted, surrender becomes effective at such time and upon such conditions as the commissioner by order determines.

(b) If the commissioner finds that any plan, solicitor, or solicitor firm is no longer in existence, or has ceased to do business as such a licensee or is subject to an adjudication of mental incompetence or to the control of a committee or conservator or guardian, or cannot be located after reasonable search, the commissioner may by order summarily revoke the license of such person.

(c) The commissioner may summarily suspend or revoke the license of a plan, solicitor, or solicitor firm upon (1) failure to pay any fee required by this chapter within 15 days after notice by the commissioner that such fee is due and unpaid, or (2) failure to file any amendment or report required under this chapter within 15 days after notice by the commissioner that such report is due, or (3) failure to maintain any bond or insurance pursuant to Section 1376.

(d) The commissioner may summarily suspend or revoke the transitional license of a plan on (1) the approval of the plan's application for license pursuant to Section 1353 of this chapter, as is provided in subdivision (a) of Section 1350, (2) the denial, abandonment, or withdrawal of the plan's application for license pursuant to Section 1353 or the cessation of the plan's operations as provided in subdivision (b) of Section 1350, or (3) the failure to make a bona fide written response to the commissioner as provided in Section 1351.2.

SEC. 19. Section 1399.1 is added to the Health and Safety Code, to read:

1399.1. (a) All orders and other actions taken by the commissioner pursuant to the authority contained in subdivision (c) of Section 1350 on or before September 30, 1977, and all administrative or judicial decisions or orders relating to the same and all conditions imposed upon the same remain in effect against a plan holding a transitional license.

(b) The Knox-Mills Health Plan Act as in effect prior to its repeal continues to govern all suits, actions, prosecutions or proceedings which are pending or which may be initiated under subdivision (c) of Section 1350 on the basis of facts or circumstances occurring on or before September 30, 1977.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

It is necessary that plans which were registered under the Knox-Mills Health Plan Act and which have applied for license under the Knox-Keene Health Care Service Plan Act of 1975 be transitionally licensed without findings as plans under the Knox-Keene Health Care Service Plan Act to subject all such plans to the provisions of that act at the same time to avoid competitive

disadvantages and to provide maximum protection to the public through fiscal examinations, medical surveys and other regulatory review, and to postpone the requirement that plans have subsequent providers, which requires additional time to permit implementation.Additionally, counties require authority as soon as possible to contract to provide the services of a health maintenance organization under Section 1876 of the federal Social Security Act, as well as to provide services in addition to those authorized by subsection (c) of Section 1876.

CHAPTER 819

An act to add Article 9 (commencing with Section 7700) to Chapter 1 of Division 4 of the Public Utilities Code, relating to rail service assistance.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977]

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

SECTION 1 Article 9 (commencing with Section 7700) is added to Chapter 1 of Division 4 of the Public Utilities Code, to read:

Article 9. Rail Service Assistance

7700. By Section 803 of the Railroad Revitalization and Regulatory Reform Act of 1976, designated in this chapter as the "act," Congress has established a local rail service continuation assistance program. Such program is designed to cover: the cost of rail service continuation payments; the cost of purchasing a line of railroad or other rail properties to maintain existing or provide for future rail service; the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line; and the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service. The Legislature hereby determines that such program should be implemented in California and that such implementation would constitute a public purpose.

7701. The Department of Transportation, in cooperation with the commission and other affected state and local agencies, shall be responsible for the preparation and periodic update of the state rail plan required by the act.

7702. The Department of Transportation, in cooperation with the commission and other affected state and local agencies, shall perform the duties required by the act in developing, promoting, supervising, and supporting safe, adequate, and efficient rail transportation services; maintaining adequate programs of investigation, research,

promotion, and development, with provisions for public participation; and shall take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution. It is not the intent of this section to diminish in any respect the authority and responsibility of the commission. The department shall work in close cooperation with the commission in carrying out the duties imposed upon it under this chapter.

7703. The Department of Transportation shall administer a program of projects for rail service assistance financed in whole or in part with funds derived pursuant to the act. All necessary matching funds shall be expressly appropriated by the Legislature or donated by public or private entities.

7704. To the maximum extent permitted by federal law, rules, and regulations, the Department of Transportation shall recover the costs of administering this chapter from the federal funds received pursuant to the act.

7705. The Governor, the Secretary of the Business and Transportation Agency, and the Department of Transportation may enter into such agreements, execute such documents, establish and manage such accounts and deposits, act as a recipient, and take any other action that may be appropriate to carry out the rail assistance programs authorized by the act.

CHAPTER 820

An act to amend Sections 2101 and 2102 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 2101 of the Unemployment Insurance Code is amended to read:

2101. (a) It is a misdemeanor to willfully make a false statement or representation or knowingly fail to disclose a material fact to obtain, increase, reduce, or defeat any benefit or payment, whether for the maker or for any other person, under any of the following statutes administered by the department:

(1) The provisions of this division.

(2) The provisions of any unemployment insurance law of the federal government

(3) The provisions of any training allowance law of the federal government.

(4) The provisions of any trade readjustment allowance law of the federal government.

(5) The provisions of any other allowance law of the federal government.

(b) Nothing in this section shall be construed to preclude the applicability of Section 470 of the Penal Code to any acts or omissions which violate this section.

SEC. 2. Section 2102 of the Unemployment Insurance Code is amended to read:

2102. (a) It is a misdemeanor for any person residing in this state to willfully make a false statement or representation or knowingly fail to disclose a material fact to obtain or increase benefits or payments under the provisions of the unemployment insurance law of any other state.

(b) Nothing in this section shall be construed to preclude the applicability of Section 470 of the Penal Code to any acts or omissions which violate this section.

SEC. 3. The amendments to Sections 2101 and 2102 of the Unemployment Insurance Code made by this act shall be operative with respect to acts or omissions commencing on and after the effective date of this act, and the provisions of Sections 2101 and 2102 of said code in effect prior to such amendments shall continue to be applicable with respect to acts or omissions commencing prior to the effective date of this act.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 821

An act to amend Section 10753.2 of the Revenue and Taxation Code and to amend Sections 5102, 5305.5, and 22705 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 10753.2 of the Revenue and Taxation Code is amended to read:

10753.2. (a) After determining the California suggested base price, as defined in this article, of a vehicle or its cost price to the purchaser, as provided in this article, the department shall classify every vehicle in its proper class according to the classification plan set forth in this section.

(b) For the purpose of this part, a classification plan is established

consisting of the following classes: a class from no dollars ($0) to and including forty-nine dollars and ninety-nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of such number of classes as will permit classification of all vehicles.

(c) The market value of a vehicle for each registration year, starting with either the year the vehicle was first sold to a consumer as a new vehicle or the year the vehicle was first purchased or assembled by the person applying for original registration in this state, shall be as follows: for the first year, 85 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b) of this section; for the second year, 70 percent of such sum; for the third year, 55 percent of such sum; for the fourth year, 40 percent of such sum; for the fifth year, 30 percent of such sum; for the sixth year, 25 percent of such sum; for the seventh year, 15 percent of such sum; for the eighth year, 10 percent of such sum; and for the ninth and each succeeding year, 5 percent of such sum; provided, however, that the minimum tax shall be the sum of one dollar ($1). Notwithstanding the provisions of this subdivision, the market value of a trailer coach first sold on and after January 1, 1966, which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be determined by the schedule in Section 10753.3.

SEC. 2. Section 5102 of the Vehicle Code is amended to read:

5102. The environmental license plates shall be the same color and design as regular passenger vehicle, commercial vehicle, or trailer license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding six positions for plates issued for motorcycles, and not exceeding seven positions for plates issued for other vehicles, and, for all vehicles, shall consist of not less than two positions, provided that there are no conflicts with existing passenger, commercial, trailer, motorcycle, or special license plates series or with the provisions of Section 4851

SEC. 3 Section 5350.5 of the Vehicle Code is amended to read·

5350.5. (a) Application for the original registration of, or for an original certificate of ownership to, a new trailer coach, a new camp trailer, or a new housecar, shall be accompanied by a certificate of origin from the manufacturer or fabricator showing the date of sale to the dealer or person first receiving it from the manufacturer or fabricator, the name of the dealer or person and a description sufficient to identify the trailer coach, camp trailer, or housecar, and a certification that the trailer coach, camp trailer, or housecar was new when sold If the original certificate of origin is not in existence, a duplicate thereof shall be prepared and shall accompany the application. If sold through a dealer, the dealer shall certify that the trailer coach, camp trailer, or housecar was new when sold to the applicant.

(b) As used in this section, "housecar" does not include a motortruck to which a camper has been permanently attached.

SEC. 4. Section 22705 of the Vehicle Code is amended to read:

22705. If the vehicle is appraised at a value not exceeding two hundred dollars ($200), the public agency which removed the vehicle shall:

(a) Within 48 hours after appraisal notify the Department of Justice in Sacramento of the removal of such vehicle.

(b) Prepare a certificate containing a description of the vehicle (including the location of any license plates thereon), stating the appraisal value of the vehicle and that the vehicle will be sold to an automobile dismantler or a scrap metal processor, and indicating one of the following:

(1) A lienholder has submitted a statement under penalty of perjury to the public agency that the registered and legal owners and other persons having an interest in the vehicle did not sign and return within 20 days to the Department of Motor Vehicles a declaration of opposition stating a desire to contest the claim which gives rise to the lien pursuant to Section 3071.3 of the Civil Code.

(2) The registered and legal owners have signed a release under penalty of perjury disclaiming any interest, which release shall be included with the certificate.

(3) The vehicle is in such condition that vehicle identification numbers are not available to determine owners of record with the department, in which event the vehicle may be disposed of.

(c) Upon completion of the certificate, execute and deliver a bill of sale free of any lien for fees and penalties due and payable to the department together with a copy of the certificate either to the lienholder, who shall endorse the bill of sale to a licensed automobile dismantler, or to the licensed automobile dismantler or the public agency for disposal, whichever has the vehicle in possession.

(d) Forward the completed certificate to the Department of Motor Vehicles in Sacramento.

(e) Licensed dismantlers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees and penalties which would otherwise be due to the Department of Motor Vehicles, if a copy of the certificate forwarded to the Department of Motor Vehicles pursuant to this section is retained in the licensed dismantler's business record.

(f) A public agency may authorize by contract or franchise the removal, disposal, or removal and disposal, of such vehicles by other than a licensed automobile dismantler if it has first requested bids for removal, disposal, or removal and disposal, of such vehicles. Such franchise or contract shall be issued to or executed with the lowest responsible bidder. The bill of sale shall then be executed and delivered pursuant to subdivision (c) to the franchisee or contractor.

SEC. 5. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the California Environmental Protection Program Fund to the Department of Motor Vehicles for its costs

incurred in connection with implementing Section 5102 of the Vehicle Code, as amended by this act.

SEC. 6. Section 2 of this act shall become operative on July 1, 1978.

CHAPTER 822

An act to amend Section 24051.1 of the Financial Code, relating to financial institutions.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 24051.1 of the Financial Code is amended to read:

24051.1. This division does not apply to any loan of credit made pursuant to a plan having all of the following characteristics:

(a) Credit cards are issued pursuant to written application therefor and to the plan whereby the organization issuing such cards shall be enabled to acquire those certain obligations which its members in good standing incur with those persons with whom the organization has entered into written agreements setting forth the plan, and where the obligations are incurred pursuant to such agreements; or whereby the organization issuing such cards shall be enabled to extend credit to its members.

(b) The fee for such credit cards is designed to cover the administrative costs of the plan and is imposed upon the issuance of the card and on annual renewal dates thereafter.

(c) Any charges, discounts, or fees resulting from the acquisition of such charges shall be paid to the organization issuing the credit cards by the persons, corporations or associations with whom the organization has entered into such written agreements.

CHAPTER 823

An act to amend Section 3060 of the Government Code, relating to personnel commissions of school districts.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 3060 of the Government Code is amended to read:

3060. An accusation in writing against any officer of a district, county, or city, including any member of the governing board or personnel commission of a school district, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed. An accusation may not be presented without the concurrence of at least 12 grand jurors.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 824

An act to add Section 487.1 to the Streets and Highways Code, relating to highways.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 487.1 is added to the Streets and Highways Code, to read:

487.1. The title to that portion of the right-of-way acquired by the City of Los Angeles, and furnished to the State of California, for Route 187, but not needed for that route upon its construction, is hereby relinquished to the city. However, before any relinquishment occurs, the department shall concur that such portion is not needed for state highway purposes, and the portion being relinquished shall be precisely described and recorded with the County Recorder of Los Angeles County.

SEC. 2. Before the Department of Transportation could construct any portion of State Highway Route 187, the City of Los Angeles was required, under Section 487 of the Streets and Highways Code, to acquire, and to furnish to the State of California, the necessary right-of-way. In so doing, the city furnished to the state more right-of-way than was actually required for the highway upon its construction. There is now a dispute between the Department of Transportation and the city as to which entity has title to the excess right-of-way.

In enacting Section 487, it was the intent of the Legislature that the state would have title only to that portion of the right-of-way necessary for the highway and not to all of the right-of-way that was

actually furnished.

Therefore, it is only equitable that the title to the excess right-of-way be relinquished to the city.

CHAPTER 825

An act to amend Sections 380, 31600, 34003, 34005, 34500, and 34501 of, to amend the heading of Division 14.7 (commencing with Section 34001) of, to add Sections 353 and 2402.7 to, and to repeal Sections 324, 324.5, and 27904 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 324 of the Vehicle Code is repealed.

SEC. 2. Section 324.5 of the Vehicle Code is repealed.

SEC. 3. Section 353 is added to the Vehicle Code, to read:

353. "Hazardous material" is any material or device posing an unreasonable risk to health, safety, or property during transportation, as defined by regulations adopted pursuant to Section 2402.7.

SEC. 4. Section 380 of the Vehicle Code is amended to read:

380. "Liquefied petroleum gas" means normal butane, isobutane, propane, or butylene (including isomers) or mixtures composed predominantly thereof in liquid or gaseous state having a vapor pressure in excess of 40 pounds per square inch absolute at a temperature of 100 degrees Fahrenheit.

SEC. 5. Section 2402.7 is added to the Vehicle Code, to read:

2402.7. The commissioner shall adopt the definitions adopted by the United States Department of Transportation relating to hazardous materials, including, but not limited to, definitions relating to any explosive, flammable liquid, flammable solid, flammable gas, combustible liquid, oxidizing material, poison, corrosive material, compressed gas, radioactive material, or etiologic agent.

SEC. 6. Section 27904 of the Vehicle Code is repealed.

SEC. 7. Section 31600 of the Vehicle Code is amended to read:

31600. For the purposes of this division, "explosive" or "explosives" means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat. "Explosive" or "explosives" includes, but is not necessarily limited to, any of the following:

(a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, commercial boosters, or

nitrocarbonitrates (oxidizing materials) when transported in a combined load with any explosive, as defined in this section.

(b) Substances determined to be class A or class B explosives.

(c) "Explosive" or "explosives" does not include small arms ammunition or any other class C explosive.

(d) This division shall not apply to special fireworks classified by the United States Department of Transportation as class B explosives when such special fireworks are regulated by and in conformance with Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code.

SEC. 8. The heading of Division 14.7 (commencing with Section 34001) of the Vehicle Code is amended to read:

DIVISION 14.7. FLAMMABLE AND COMBUSTIBLE LIQUIDS

SEC. 9. Section 34003 of the Vehicle Code is amended to read:

34003. As used in this division:

(a) "Cargo tank" means any container having a volumetric capacity in excess of 120 gallons that is used for the transportation of flammable liquids or combustible liquids. This term includes pumps, meters, valves, fittings, piping, and other appurtenances attached to a tank vehicle and used in connection with the flammable liquids or combustible liquids being transported in the cargo tank.

"Cargo tank" does not, however, include any tank used to carry fuel necessary for the operation of the vehicle or any equipment of the vehicle.

(b) "Tank vehicle" means any truck, trailer, or semitrailer equipped with a cargo tank which is used for the transportation of flammable liquids or combustible liquids within this state.

(c) "Flammable liquids" and "combustible liquids" means such substances as defined by the regulations adopted by the commissioner pursuant to Section 2402.7.

SEC. 10. Section 34005 of the Vehicle Code is amended to read:

34005. The provisions of this division shall not apply to a trap wagon or spray rig when empty or when transporting not more than 1,000 gallons of flammable liquids or combustible liquids to accomplish the basic function of such vehicle. For the purpose of this section, "trap wagon" and "spray rig" have the same meaning of those terms as defined in Section 36005.

SEC. 11. Section 34500 of the Vehicle Code is amended to read:

34500. The Department of the California Highway Patrol shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles.

(b) Truck tractors.

(c) Buses and schoolbuses.

(d) Trailers, semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with motortrucks of three or more axles, truck tractors, buses, or schoolbuses.

(e) Any combination of a two-axle truck and any vehicle or vehicles set forth in subdivision (d) that exceeds 40 feet in length when coupled together.

(f) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(g) Trailer coaches which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

SEC. 11.5. Section 34501 of the Vehicle Code is amended to read:

34501. (a) The Department of the California Highway Patrol shall adopt reasonable rules and regulations which in the judgment of the department are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The Commissioner of the Department of the California Highway Patrol shall appoint a committee of 15 members, consisting of representatives of industry subject to regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department is directed to cooperate and confer with the advisory committee so appointed.

The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

The department may adopt regulations restricting or prohibiting the movement of vehicles from maintenance facilities or terminals found in violation of the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt such regulations for the transportation of hazardous materials in this state, except for materials the transportation of which is subject to other provisions of this code, as the department determines reasonably necessary to ensure the safety of persons and property using the highways. Such regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that such shipments are correctly identified and in proper conditions for transport.

SEC. 12. Section 34501 of the Vehicle Code is amended to read:

34501. (a) The Department of the California Highway Patrol shall adopt reasonable rules and regulations which in the judgment of the department are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. Such rules and regulations shall not,

however, be applicable to schoolbuses which shall be subject to rules and regulations adopted pursuant to Section 34501.5. The Commissioner of the Department of the California Highway Patrol shall appoint a committee of 15 members, consisting of representatives of industry subject to regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department is directed to cooperate and confer with the advisory committee so appointed.

The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with the provisions of this code and regulations adopted pursuant to this section.

The department may adopt regulations restricting or prohibiting the movement of vehicles from maintenance facilities or terminals found in violation of the provisions of this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt such regulations for the transportation of hazardous materials in this state, except for materials the transportation of which is subject to other provisions of this code, as the department determines reasonably necessary to ensure the safety of persons and property using the highways. Such regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that such shipments are correctly identified and in proper conditions for transport.

SEC. 13. Section 12 of this act shall become operative only if Assembly Bill No. 510 is chaptered and becomes effective and in such case shall become operative January 1, 1978. If Assembly Bill No. 510 is chaptered and becomes effective, the provisions of Section 11.5 of this act shall not become operative.

SEC. 14. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant, identifiable cost changes.

CHAPTER 826

An act to add Section 10084 to the Business and Professions Code, relating to real estate sales.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 10084 is added to the Business and Professions Code, to read:

10084. The commissioner may prepare a pamphlet or brochure dealing with disclosures of information in residential real estate transactions. The costs of preparation and distribution may be paid from such moneys as may from time to time be appropriated from the Real Estate Fund for education and research. The commissioner shall make copies of the pamphlet or brochure available upon request to sellers, buyers, and real estate licensees for a fee commensurate with the cost of preparation and distribution. Such fees as are collected shall be paid into the education and research account of the Real Estate Fund.

CHAPTER 827

An act to amend Section 19630.1 of the Business and Professions Code, relating to fairs and making an appropriation therefor.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 19630.1 of the Business and Professions Code is amended to read:

19630.1. There is hereby appropriated annually from the second balance of the fund, the sum of three million dollars ($3,000,000) for each of the 1976–77, 1977–78, and 1978–79 fiscal years for loans for allocation to state-supported fairs by the Director of Finance, for the purposes specified in Section 19630 and pursuant to the provisions of Chapter 630 of the Statutes of 1975. For any loan or series of loans for any single project, if the total amount of the loan or the series of loans exceeds one million dollars ($1,000,000), the Director of Finance may extend the repayment time up to 15 years for any such loan or loans

The Director of Finance shall develop a criteria to determine eligibility of fairs applying for loans pursuant to this section.

Any funds appropriated by this section for any fiscal year may be allocated and used for loans during any fiscal year of 1976–77 to 1980–81, inclusive, for the purposes set forth in this section.

CHAPTER 828

An act to amend Section 5024 of the Streets and Highways Code, relating to public improvements.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 5024 of the Streets and Highways Code is amended to read:

5024. "Incidental expense" includes all of the following:

(a) The compensation of the engineer for work done by him, and attorney's fees for services in proceedings pursuant to this division.

(b) The cost of printing and advertising provided for in this division, including the treasurer's estimated cost of printing, servicing, and collecting any bonds to be issued to represent or be secured by unpaid assessments.

(c) The compensation of the person appointed by the superintendent of streets to take charge of, and superintend any of, the work.

(d) The expenses of making the assessment, and of the collection of assessments by the superintendent of streets when directed by ordinance to receive payments pursuant to Section 5396, and of preparing and typing the resolutions, notices, and other papers and proceedings for any work authorized by this division.

(e) The expenses of making any analysis and tests to determine that the work, and any materials or appliances incorporated therein, comply with the specifications.

(f) All costs and expenses incurred in carrying out the investigations and making the reports required by the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

(g) The cost of title searching, description writing, salaries of right-of-way agent, appraisal fees, partial reconveyance fees, surveys, and sketches incident to securing rights-of-way for any work authorized by this division.

(h) Any other expenses incidental to the construction, completion, and inspection of the work in the manner provided for in this division.

(i) The cost of relocating or altering any public utility facilities as required by the improvement in those cases where such cost is the legal obligation of the city.

(j) In a county having a population of 4,000,000 or over, the cost of purchasing plans prepared by a registered civil engineer engaged by owners.

(k) The cost of filing and of recording documents where such cost is the legal obligation of the city.

(*l*) The cost of any acquisition, as defined in Section 5023.1, and expenses incidental in connection with such acquisition.

(m) In the event that the construction of sewers or appurtenances incident thereto shall have been ordered, sewer service, connection, and capacity charges established by the city as a condition to the providing of sewer service for the benefit of properties within the assessment district, and required for the completion and utilization of the improvement constructed.

(n) In the event that the construction of water improvements or appurtenances incident thereto shall have been ordered, water service, connection, and capacity charges established by the city as a condition to the providing of water service for the benefit of properties within the assessment district, and required for the completion and utilization of the improvement constructed.

All demands for incidental expenses shall be presented to the street superintendent, by an itemized bill, duly verified by the demandant.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section, nor shall there be any appropriation made by this act, because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 829

An act to amend Section 16304 of, and to add Section 16304.01 to, the Government Code, relating to state funds, and making an appropriation therefor.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 16304 of the Government Code is amended to read:

16304. An appropriation shall be available for encumbrance during the period specified therein, or, if not otherwise limited by law, for three years after the date upon which it first became available for encumbrance. An appropriation containing the term "without regard to fiscal years" shall be available for encumbrance from year to year until expended.

An appropriation shall be deemed to be encumbered at the time and to the extent that a valid obligation against the appropriation is created.

As used in this code and in every other statute heretofore or hereafter enacted, the term "unexpended balance" shall be

construed to mean "unencumbered balance."

Appropriations for the following purposes are exempt from limitations as to period of availability in any appropriation, and shall remain available from year to year until expended:

(a) Payment of interest and redemption charges on any portion of the bonded debt of the state.

(b) Transfers of money from any fund for the benefit of elementary schools, high schools, junior colleges, the University of California, or any interest and sinking fund in the State Treasury.

(c) Appropriations made for co-operative work under specific agreement or under contract.

(d) Money transferred to revolving funds specifically created by law, including, but not limited to, the Division of Architecture Revolving Fund and the Water Resources Revolving Fund.

(e) Appropriations available for the acquisition of real property to the extent that such appropriations have been encumbered by the filing of condemnation proceedings on behalf of the State of California prior to the expiration of the period of availability of the appropriation.

(f) Money transferred to and expendable from funds other than the fund in which originally deposited, pursuant to the provisions of law earmarking or appropriating for expenditure certain classes of revenue or other receipts.

(g) Continuing provisions of law appropriating for specific purposes certain classes of revenue or other receipts, upon their deposit in a particular fund in the State Treasury or upon their collection by an agency of this state.

SEC. 2. Section 16304.01 is added to the Government Code, to read:

16304.01. Notwithstanding Section 16304, an appropriation available for the acquisition of real property to the extent that such appropriation is required to carry out the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 shall be available for five years after the date upon which it first became available for encumbrance.

CHAPTER 830

An act to amend Section 250 of the Financial Code, relating to the State Banking Department.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 250 of the Financial Code is amended to read:

250. The superintendent shall have his principal office in the City and County of San Francisco and may also have an office in the City of Sacramento, in the City of Los Angeles and in the City of San Diego. The superintendent shall provide at the expense of the department such office space, furniture, and equipment as may be necessary or convenient for the transaction of the business of the department.

CHAPTER 831

An act to amend Section 28755 of, to add Sections 26564.5, 26649.5, and 26735.5 to, and to add Chapter 15 (commencing with Section 30000) to Division 21 of the Health and Safety Code, relating to household substances.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 26564.5 is added to the Health and Safety Code, to read:

26564.5. Any food is misbranded if its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 30002 or 30005.

SEC. 2. Section 26649.5 is added to the Health and Safety Code, to read:

26649.5. Any drug is misbranded if its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 30002 or 30005.

SEC. 3. Section 26735.5 is added to the Health and Safety Code, to read:

26735.5. Any cosmetic is misbranded if its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 30002 or 30005.

SEC. 4. Section 28775 of the Health and Safety Code is amended to read:

28755. The term "misbranded hazardous substance" means a hazardous substance (including a toy or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted) intended, or packaged in a form suitable for use in the household or by children if the packaging or labeling of such substance is in violation of an applicable regulation issued pursuant to Section 30002 or 30005, or if such substance, except as otherwise provided by, or pursuant to, Section 28775, 28778 or 28779, fails to bear a label which

states conspicuously, as prescribed in Chapter 10 (commencing with Section 25900) of Division 20: (1) the name and place of business of the manufacturer, packer, distributor, or seller; (2) the common or usual name or the chemical name, if there be no common or usual name, of the hazardous substance or of each component which contributes substantially to its hazard, unless the department by regulation permits or requires the use of a recognized generic name; (3) the signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic; (4) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (5) an affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor harmful," "Causes burns," "Absorbed through skin," or similar wording descriptive of the hazard; (6) precautionary measures describing the action to be followed or avoided, except when modified by the department pursuant to Section 28775, 28775.1, 28775.2, 28778, or 28779; (7) instructions, when necessary or appropriate, for first aid treatment; (8) the word "Poison" for any hazardous substance which is defined as "highly toxic" by Section 28746; (9) instructions for handling and storage of packages which require special care in handling or storage; and (10) the statement "Keep out of the reach of children," or its practical equivalent, or if the article is intended for use by children and is not a banned hazardous substance, adequate direction for the protection of children from the hazard. The term "misbranded hazardous substance" also includes a household substance as defined in subdivision (b) of Section 30001 if it is a substance described in Section 28743 and its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 30002 or 30005.

SEC. 5. Chapter 15 (commencing with Section 30000) is added to Division 21 of the Health and Safety Code, to read:

CHAPTER 15. POISON PREVENTION PACKAGING ACT

Article 1. Definitions and General Provisions

30000. This chapter shall be known and may be cited as the "California Poison Prevention Packaging Act."

30001. Unless the provisions or the context otherwise requires, these definitions, rules of construction, and general provisions shall govern the construction of this chapter. As used in this chapter:

(a) The term "department" means the State Department of Health.

(b) The term "household substance" means any substance which is customarily produced or distributed for sale for consumption or use, or customarily stored by individuals in or about the household and is one of the following:

(1) A hazardous substance as that term is defined in Section 28743.

(2) A food, drug, or cosmetic, as those terms are defined in Sections 26012, 26010, and 26005, which (1) is toxic, (2) is corrosive,

(3) is an irritant, (4) is a strong sensitizer, (5) is flammable or combustible, or (6) generates pressure through decomposition, heat, or other means; if it may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(3) A substance intended for use as fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a residential dwelling.

(c) The term "package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of household substances, also means any outer container or wrapping used in the retail display of any such substance to consumers.

"Package" does not include the following:

(1) Any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof.

(2) Any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only container or wrapping.

(d) The term "special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount of within a reasonable time.

(e) The term "labeling" means all labels and other written, printed, or graphic matter upon any household substance or its package, or accompanying such substance.

(f) The term "federal act" means the "Poison Prevention Packaging Act of 1970" (15 U.S.C. § 1471 et seq.).

Article 2. Regulations

30002. The department shall, pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, adopt regulations establishing standards for the special packaging of any household substance in accordance with the provisions of this chapter if the regulations do not differ in substance or proscribe or require conduct which differs from the provisions of the federal act or regulations issued pursuant to the federal act and if the department finds as follows:

(a) The degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious

personal injury or serious illness resulting from handling, using, or ingesting such substance.

(b) The special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

30003. In establishing a standard under Section 30002, the department shall consider all of the following:

(a) The reasonableness of such standard.

(b) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances.

(c) The manufacturing practices of industries affected by the standard.

(d) The nature and use of the household substance.

30004. To the extent that the requirements of this chapter are identical with the federal act, all regulations and any amendments to such regulations adopted pursuant to the federal act, which are in effect on the effective date of this section or which are adopted on or after such date, shall be the poison prevention packaging regulations of this state.

30005. Any federal regulation adopted by the department pursuant to this chapter shall take effect in this state 30 days after it becomes effective as a federal regulation. Any person who would be adversely affected by adoption of such federal regulation in this state may, within the 30 days prior to its becoming effective in this state, file with the state department, in writing, objections and a request for a hearing. The timely filing of substantial objections to a regulation which has become effective under the federal act, shall stay the adoption of the regulation in this state as a state regulation.

30006. If substantial objections are made to a federal regulation within 30 days prior to its becoming effective in this state or to a proposed regulation within 30 days after it is published, the department, after notice, shall conduct a public hearing to receive evidence on issues raised by the objections. Any interested person or his representative shall be heard at the hearing. The department shall act upon objections by order and shall mail the order to objectors by certified mail within a reasonable period of time after the hearing. The order shall be based on evidence contained in the record of the hearing. If the order concerns a proposed regulation of the department, the department may withdraw it or set an effective date for the regulation as published or as modified by the order. The effective date shall be at least 60 days after publication of the order.

30007. Nothing in this chapter shall authorize the department to prescribe specific packaging designs, product content, or package quantity, except as provided in subdivision (b) of Section 30008. In the case of a household substance for which special packaging is required pursuant to a regulation under this chapter, the department may prohibit the packaging of such substance in packages which it determines are unnecessarily attractive to children.

Article 3. Marketing of Conventional Packages

30008. For the purposes of making any household substance which is subject to a standard established under Section 30002 readily available to elderly or handicapped persons unable to use such substance when packaged in compliance with such standard, the manufacturer or packer, may package any household substance, subject to such standard in packaging of a single size which does not comply with such standard if both of the following are present:

(a) The manufacturer or packer also supplies such substance in packages which comply with such standards.

(b) The packages of such substance, which do not meet such standard, shall bear conspicuous labeling stating: "This package for household without young children." The department regulation may prescribe a substitute statement to the same effect for packaging too small to accommodate such labeling.

30009. If a household substance subject to such a standard is dispensed pursuant to an order of a physician, dentist, or other licensed medical practitioner authorized to prescribe the substance, then it may be dispensed in noncomplying packages only when directed in the order or when requested by the purchaser.

30010. If a household substance subject to such a standard is packaged pursuant to subdivision (b) of Section 30008 in a noncomplying package, and the department determines that the substance is not also being supplied by a manufacturer or packer in popular size packages which comply with such standard, the department may, after giving the manufacturer or packer an opportunity to comply with the purposes of this chapter, require by order that such substance be packaged by the manufacturer or packer exclusively in special packaging complying with such standard if it finds, after opportunity for hearing, that such exclusive use of a special packaging is necessary to accomplish the purposes of this chapter.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 832

An act to amend Section 9984.5 of, and to add Sections 9950.1 and 9953.1 to, the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 9950.1 is added to the Business and Professions Code, to read:

9950.1. When a licensee functioning as a single proprietorship incorporates for purposes of legal liability, the license shall be transferred to corporate status upon proper application to the bureau and upon payment of the filing fee as prescribed in Article 7 (commencing with Section 9995). No written examination shall be required as a condition to such transfer.

SEC. 2. Section 9953.1 is added to the Business and Professions Code, to read:

9953.1. A license which has expired may be renewed at any time within five years of its expiration upon proper application to the bureau and upon payment of the renewal fee in effect at the time of such renewal and upon payment of the reinstatement fee prescribed in Article 7 (commencing with Section 9995). No written examination shall be required as a condition to such renewal.

SEC. 3. Section 9984.5 of the Business and Professions Code is amended to read:

9984.5. (1) Notwithstanding the provisions of Sections 9975, 9977, and 9984, relating to fees, any employment agency which as its sole means of procuring or attempting to procure employment or engagements for others, uses a computer system to correlate and match information furnished by prospective employees and requirements from prospective employers, may as its sole compensation for services charge either a prospective employee or a prospective employer, but not both, a nonrefundable fee not to exceed twenty dollars ($20). In order to qualify under this section an agency shall satisfy all of the following requirements:

(a) Contact prospective employees not less than once every three months to ascertain whether they are presently seeking employment indicated in the agency's records. If the prospective employee has obtained employment or indicates he is no longer interested in employment, data with respect to such person may be removed from the computer system. If such person indicates he is seeking a position registered with the agency, data as to such person shall remain in the computer system for not less than one year from the date the fee was paid.

(b) The agency shall, not less than once per week, process all data through the computer system to obtain matches of prospective employees and prospective employers and notify the prospective employer of the name, qualifications and means of contacting such persons matching with such prospective employer, not more than 48 hours after such process.

(c) Comply with all rules and regulations adopted by the bureau. The bureau shall adopt and enforce such rules and regulations as

it determines are reasonably necessary to carry out the purposes of this section and to protect and safeguard persons seeking employment from fraud.

(2) Notwithstanding the provisions of Sections 9975, 9977, and 9984, relating to fees, any employment agency which as its sole means of procuring or attempting to procure employment or engagements for others, places the qualifications of applicants before prospective employers in areas exclusively outside the United States shall not be required to include the word "agency" in its title, or in any other identifying materials used in the conduct of its business.

CHAPTER 833

An act to add Section 8689 to the Streets and Highways Code, relating to Bass Lake Improvement District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 8689 is added to the Streets and Highways Code, to read:

8689. Within the Bass Lake Improvement District in Madera County, a person who has an interest in any land in the improvement district less than a fee interest, such as a leaseholder or subleaseholder, may pay, and the tax collector may accept payment for the entire assessment or any installment thereon, including the assessment on the fee interest. When the tax collector accepts such payment on a portion or part of a parcel, the tax collector shall record such information as required to identify such payment, and the tax collector may add to such assessment a fee as required to pay any additional costs incurred for accepting such payment on a portion of the parcel assessed. The tax collector shall deposit all such fees in the general fund of the treasury.

SEC. 2. The Legislature hereby finds and declares that a special problem exists within the Bass Lake Improvement District the solution for which a general law cannot be made applicable. Within the Bass Lake Improvement District there are long-term leaseholds and improvements to real property made by the leaseholders which necessitated the creation of this improvement district to provide sewage services. The lessors of such parcels are required to collect assessments for the county, a task which the county can more equitably and efficiently accomplish directly from the occupiers and lessees as sewer use charges and other county taxes are collected. For these reasons a special act is necessary within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The occupiers and owners of improvements to property in the Bass Lake Improvement District are not able to discern from conflicting instructions regarding to whom and in what amounts the sewer assessments are to be paid. In order to have the payments by the property occupiers and owners promptly credited and accounted to the sewer assessments, it is necessary that the provisions of this act go into immediate effect.

CHAPTER 834

An act to add Section 165.3 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 165.3 is added to the Vehicle Code, to read:

165.3. An authorized emergency vehicle also is any vehicle of the Department of Airports of the City of Los Angeles while operated by peace officer personnel of the department within the boundaries of any airport that is subject to the jurisdiction of the department or in pursuit of any person suspected of committing any crime within such boundaries, or when responding to an airport emergency and necessarily operating the vehicle on a highway in order to reach property under the jurisdiction of the Department of Airports of the City of Los Angeles.

CHAPTER 835

An act making an appropriation for the state park system.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Notwithstanding Section 5098.2 of the Public Resources Code, the sum of four hundred sixty thousand dollars ($460,000) is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for expenditure during 1978, 1979, and 1980 for the

development of real property at Colonel Allensworth State Historic Park.

CHAPTER 836

An act to add Chapter 5.6 (commencing with Section 2570) to Division 2 of the Business and Professions Code, and to add Section 1321 to the Health and Safety Code, relating to health.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Chapter 5.6 (commencing with Section 2570) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.6. OCCUPATIONAL THERAPY

2570. (a) Any person representing himself or herself as an occupational therapist shall meet the qualifications prescribed by regulations of the state department governing reimbursement of such services under the provisions of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) Any person representing himself or herself as an occupational therapy assistant shall meet the qualifications for occupational therapy assistants prescribed by regulations of the state department governing licensure of skilled nursing facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(c) It is unlawful and constitutes a misdemeanor for any person not meeting the criteria of subdivision (a) or (b) to use, in connection with his or her name or place of business, the words "occupational therapist," "occupational therapy assistant," "certified occupational therapist," "certified occupational therapy assistant," "occupational therapist registered," or the letters "OT," "OTA," "COT," "COTA," or "OTR," or any other words, letters, abbreviations, or insignia indicating or implying that such person is an occupational therapist or to represent, in any way, orally, in writing, in print or by sign, directly or by implication, that he or she is an occupational therapist or occupational therapy assistant.

SEC. 2. Section 1321 is added to the Health and Safety Code, to read:

1321. No health facility shall advertise or represent in any way that it provides occupational therapy services unless such services are provided under the administrative control of the health facility by an occupational therapist or occupational therapy assistant within

the meaning of Section 2570 of the Business and Professions Code.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act, because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 837

An act to amend Section 2525.9 of the Business and Professions Code, relating to podiatry.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 2525.9 of the Business and Professions Code is amended to read:

2525.9. The examining committee shall have full authority, subject to rules and regulations adopted by the board, to investigate and to evaluate each and every applicant applying for a certificate to practice podiatry and to recommend to the board for final determination the admission of the applicant to the examination, or for the issuance of a certificate, in conformance with the provisions and qualifications required by this chapter.

In order to insure the continuing competence of persons holding certificates to practice podiatric medicine pursuant to this chapter, the Podiatry Examining Committee shall by January 1, 1980, adopt and administer regulations requiring continuing education of such certificate holders. The committee shall require certificate holders to demonstrate satisfaction of the continuing education requirements for each license renewal.

CHAPTER 838

An act to repeal and add Section 1735 of the Unemployment Insurance Code, relating to unemployment insurance and personal income tax withholdings.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 1735 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 1735 is added to the Unemployment Insurance Code, to read:

1735. Any officer, major stockholder, or other person, having charge of the affairs of a corporate or association employing unit, who willfully fails to pay contributions required by this division or withholdings required by the Personal Income Tax Law on the date on which they become delinquent, shall be personally liable for the amount of the contributions, withholdings, penalties, and interest due and unpaid by such employing unit. The director may assess such officer, stockholder, or other person for the amount of such contributions, withholdings, penalties, and interest. The provisions of Article 8 (commencing with Section 1126) and Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 of this division apply to assessments made pursuant to this section. With respect to such officer, stockholder, or other person, the director shall have all the collection remedies set forth in this chapter.

CHAPTER 839

An act to amend Sections 204, 325, 329, 4188, 4331, 4332, and 4370 of, to repeal and add Chapter 5 (commencing with Section 450) of Division 1 of, and to repeal Section 326.5 of, the Fish and Game Code, relating to deer, and making an appropriation therefor.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 204 of the Fish and Game Code is amended to read:

204. The commission has no power under this article to make any regulation authorizing or permitting the taking of:

(a) Any bird or mammal in any refuge heretofore or hereafter established by statute, the taking or possession of which shall be regulated pursuant to Sections 10500 to 10506, inclusive.

(b) Elk, the taking or possession of which shall be regulated pursuant to Sections 332 and 333.

(c) Antelope, the taking or possession of which shall be regulated pursuant to Section 331.

(d) Any spike buck or spotted fawn. "Spotted fawn" means a young deer born that year which has spotted pelage. "Spike buck" means a male deer with unbranched antlers on both sides which are more than three inches in length.

Any regulation establishing a season to compensate for closure of an area due to extreme fire hazard shall be made pursuant to Section

306.

Any regulation setting a special hunting season for mammals, except deer, or game birds which have increased in number to such an extent that a surplus exists or which are damaging property or are overgrazing their range shall be made pursuant to Section 325.

SEC. 2. Section 325 of the Fish and Game Code is amended to read:

325. Whenever after due investigation the commission finds that game mammals, other than deer, and fur-bearing mammals and resident game birds have increased in numbers in any areas, districts, or portions thereof other than a refuge or preserve established by statute, to such an extent that a surplus exists, or to such an extent that the mammals or birds are damaging public or private property, or are overgrazing their range, the commission may provide by regulation, for a special hunting season for the mammals and birds, additional to, or concurrent with any other open season specified by law; or provide for increased bag limits; or remove sex restrictions specified by law.

SEC. 3. Section 326.5 of the Fish and Game Code is repealed.

SEC. 4. Section 329 of the Fish and Game Code is amended to read:

329. The regulation may fix a license fee for special hunting and designate the number of special licenses to be issued, the area in which such hunting will be permitted, the number and sex of animals or birds that may be killed by each holder of a special license, and the conditions and regulations to govern such hunting.

SEC. 5. Chapter 5 (commencing with Section 450) of Division 1 of the Fish and Game Code is repealed.

SEC. 6. Chapter 5 (commencing with Section 450) is added to Division 1 of the Fish and Game Code, to read:

CHAPTER 5. MANAGEMENT OF DEER

450. It is hereby declared to be the policy of the Legislature to encourage the conservation, restoration, maintenance, and utilization of California's wild deer populations. Such conservation shall be in accordance with the principles of conservation of wildlife resources set forth in Section 1801 and in accordance with the objectives and elements stated in "A Plan for California Deer, 1976."

451. As used in this chapter "general deer hunting season" means the annual season for the area in question as is set by the commission under its general regulatory powers, or set by statute, for the taking of male deer.

452. The department shall designate deer herd management units and designate the manager for the units. Such units may encompass a single deer herd or a group of deer herds having similar management and habitat requirements and characteristics. Boundaries of such units, unless appropriate, need not follow county boundary lines.

453. The department shall develop plans for such deer herd management units. The objectives of such plans shall be the

restoration and maintenance of healthy deer herds in the wild state and to provide for high quality and diversified use of deer in California.

454. Such management plans shall contain the following program elements:

(a) Document existing information on deer herd management units and programs to obtain information that may be needed.

(b) Develop programs to maintain and increase the quality of deer habitat statewide. Such programs will emphasize cooperative action between the department and the appropriate land management entities, both public and private. Emphasis shall be directed towards identifying critical deer habitat areas and the maintenance and management of such areas.

(c) Develop programs to reduce natural mortalities where such reduction may be critical to meeting deer herd plan objectives.

(d) Develop programs to decrease the illegal taking of deer through modern law enforcement methods supported by public and private cooperative efforts.

(e) Develop diversified recreational use programs, including both hunting and nonhunting uses, consistent with the basic individual deer herd management unit capabilities.

455. Deer herd management unit plans shall be reviewed annually and shall be the basis for department recommendations to the commission pursuant to this chapter.

456. The department shall biennially report to the Legislature on the progress that is being made toward the restoration and maintenance of California's deer herds. Such report shall emphasize the program element that deals with deer habitat, particularly those problems dealing with identification and preservation of critical deer habitat areas.

457. The department shall determine prior to February 15 of each year its proposed recommendations to the commission, including its recommendations as to whether any antlerless deer hunts should be ordered. The recommendations of the department shall include the number, if any, of antlerless deer that should be taken in units, whether the permits should be either-sex permits, the proposed dates for each such taking, and the number of permits proposed for each unit.

458. The department not later than February 15 shall notify, by certified mail, the board of supervisors of each county affected of the details of its recommendations affecting such county.

The board of supervisors of any affected county may elect to hold a public hearing on the proposed recommendations of the department. Any such hearing shall be held prior to April 1. The director or his representative shall attend the hearing.

The board of supervisors of any county to which this section is applicable may, by resolution adopted, elect not to exercise the rights conferred by this section. Upon receipt of any such resolution, the department shall not thereafter be required pursuant to this section

to notify the board of supervisors of such county of its recommendations affecting such county.

This section applies only to the boards of supervisors of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

459. The board of supervisors of any county which has held a public hearing pursuant to Section 458 may, not later than April 1, by resolution adopted, object to the proposed recommendations of the department or may by resolution adopted, determine that the proposed recommendation should be modified, setting forth the necessary modifications.

A resolution objecting to, or setting forth modifications of, the proposed recommendations shall be based upon the testimony and information presented at the hearing, or presented to the board of supervisors at its meeting to consider such resolution.

The department shall not recommend to the commission, and the commission shall not authorize, the taking of antlerless deer in a county if it has received from the board of supervisors of that county a resolution objecting to such taking. In the event a board of supervisors of a county has submitted a resolution determining that the department's proposed recommendations on the taking of antlerless deer should be modified for that county, the department shall either so modify its recommendations and the commission shall so modify its orders, or the department shall not recommend and the commission shall not authorize the taking of antlerless deer in such county.

This section applies only to the board of supervisors of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

460. Prior to the April meeting of the commission as required in Section 207, the department shall recommend to the commission those deer herd units to be placed under a general deer hunting season. At the same time the department shall recommend to the commission subject to the provisions of Sections 458 and 459 whether any antlerless deer should be taken and in what deer herd units these are to be taken. If in the judgment of the department there are deer herd units in which hunting pressure would adversely affect the deer herd, or impair the hunting experience, or endanger the public safety, the department shall also recommend to the commission those deer herd units where hunter numbers should be restricted and which should be removed from the general deer hunting season

designation. The department shall inform the commission of the condition of each deer herd unit. Upon receipt of the recommendations and information required in this section, the commission shall make such material known to the public and its determinations regarding proposed regulations. The recommendations of the department shall, in accordance with the provisions of Sections 458 and 459, include the number, if any, of antlerless deer that should be taken in units, whether the permits should be either-sex permits, the proposed dates for each such taking, and the number of permits proposed for each unit. At the same time the department shall recommend the establishment of any hunter-restricted quota units, if needed, and the number of the quota and manner in which such quota permits should be issued.

SEC. 7. Section 4188 of the Fish and Game Code is amended to read:

4188. When a landowner or tenant applies for a permit under Section 4181.5, the commission, in lieu of such a permit may, with the consent of or upon the request of the landowner or tenant, under appropriate regulations, issue permits to persons holding valid hunting licenses to take deer in sufficient numbers to stop the damage or threatened damage. The commission, prior to issuing permits to licensed hunters, shall investigate and determine the number of permits necessary and the territory involved and the dates of the proposed hunt, and the manner of issuing the permits and the fee.

SEC. 8. Section 4331 of the Fish and Game Code is amended to read:

4331. The commission may determine the design and makeup of the deer license tag and prescribe the procedures for issuance and use.

SEC. 9. Section 4332 of the Fish and Game Code is amended to read:

4332. Any resident of this state 12 years of age or over who possesses a valid hunting license may, upon payment of three dollars ($3), procure one license tag for the taking of one deer by one person during the current license year.

Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license, may, upon payment of twenty-five dollars ($25), procure one license tag for the taking of one deer by one person during the current license year.

The commission upon determination that a surplus of unharvested deer exists in a designated deer herd management unit or group of units may make available an additional tag (option tag). Any resident of this state, 12 years of age or over who possesses a deer tag may purchase for five dollars ($5) an additional tag for the taking of one legal deer by one person during the current license season for such designated deer herd management unit or group of units for which a surplus of deer has been declared. Any nonresident of this state, 12 years of age or over who possesses a deer tag may purchase for

thirty-five dollars ($35) one additional tag for the taking of one legal deer by one person during the current license season for such designated deer herd management unit or group of units for which a surplus of deer has been declared.

SEC. 10. Section 4370 of the Fish and Game Code is amended to read:

4370. In every area in which deer may lawfully be taken during the general open season there is an archery season for the taking of deer with bow and arrow. The season for each area shall be as the commission may prescribe, with a minimum interposing interval of three days immediately preceding the regular open season on deer in that area. No person taking or attempting to take deer during such archery season shall carry, or have under his immediate control, any firearm of any kind.

CHAPTER 840

An act to amend Sections 213, 3517, 3571, 3572, 3575, 3581, 3582, 3583, 3584, 3585, 3586, and 5004 of, to amend the title of Article 3.5 (commencing with Section 3581) of Chapter 1 of Division 2 of, to add Sections 1063.5, 1064.5, 3525, 3572.5, 3578, 3583.1, and 3584.2 to, and to repeal Section 3516 of, the Public Utilities Code, relating to highway carriers.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 213 of the Public Utilities Code is amended to read:

213. "Highway common carrier" means every corporation or person owning, controlling, operating, or managing any autotruck, or other self-propelled vehicle not operated upon rails, used in the business of transportation of property as a common carrier for compensation over any public highway in this state, except passenger stage corporations transporting baggage and express upon passenger vehicle incidental to the transportation of passengers.

"Highway common carrier" does not include any such corporation or person while operating within lawfully established pickup and delivery limits of a common carrier in the performance for such carrier of transfer, pickup, or delivery services provided for in the lawfully published tariffs of such carrier insofar as such pickup and delivery limits do not include territory in excess of three miles from the corporate limits of any city or three miles from the post office of any unincorporated point.

SEC. 1.5. Section 1063.5 is added to the Public Utilities Code, to read:

1063.5. Any person or corporation operating as a radial highway common carrier on the effective date of this section may on or before December 31, 1978, file an application for a certificate to continue such operations as a highway common carrier. In lieu of all other fees required by law, the applicant shall pay a fee of twenty-five dollars ($25). Upon filing of the application together with adequate evidence of the carrier's operation, the commission shall issue a certificate authorizing the carrier to continue its operations without requiring further proof of public convenience and necessity, if it finds upon examination that the carrier was in bona fide operations as a radial highway common carrier on July 1, 1978, and continuously thereafter to date of filing.

Upon issuance of the certificate to operate as a highway common carrier, the permit to operate as a radial highway common carrier shall be revoked.

SEC. 2. Section 1064.5 is added to the Public Utilities Code, to read:

1064.5. No certificate of public convenience and necessity issued pursuant to Section 1063.5 may be sold, mortgaged, leased, assigned, transferred or otherwise encumbered for a period of five years after issuance, except to the extent of operations actually conducted in good faith, not including operations as a subhauler.

SEC. 3. Section 3516 of the Public Utilities Code is repealed.

SEC. 4. Section 3517 of the Public Utilities Code is amended to read:

3517. "Highway contract carrier" means every highway carrier other than (a) a highway common carrier, (b) a petroleum contract carrier, (c) a petroleum irregular route carrier, (d) a cement contract carrier, (e) a dump truck carrier, (f) a cement carrier, (g) a livestock carrier, or (h) an agricultural carrier.

SEC. 4.5. Section 3525 is added to the Public Utilities Code, to read:

3525. "Agricultural carrier" means any person or corporation engaged in the transportation for compensation over any public highway in this state of fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities in any motor vehicle or combination of vehicles.

SEC. 5. Section 3571 of the Public Utilities Code is amended to read:

3571. No highway contract carrier shall engage in the business of transportation of property for compensation by motor vehicle on any public highway in this state without first having obtained from the commission a permit authorizing such operation.

SEC. 6. Section 3572 of the Public Utilities Code is amended to read:

3572. Any highway carrier desiring a permit to operate as a highway contract carrier shall file a petition therefor with the commission. The petition shall set forth:

(a) The name and address of the applicant.

(b) The names and addresses of its officers, if any.

(c) Full information concerning the financial condition and

physical properties of the applicant.

(d) Such other information necessary to the enforcement of this chapter as the commission may require.

Before a permit is issued, the commission shall require that the applicant establish financial responsibility. The commission may, with or without hearing, issue or refuse to issue the permit. If the commission finds that the applicant possesses the required financial responsibility to perform the operations proposed, it shall issue a permit. The commission may attach to the permit such terms and conditions as, in its judgment, are required to assure protection to persons utilizing the operations.

No permit shall be issued unless it has been shown that applicant meets one of the following residence requirements:

(a) If an individual, applicant shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(b) If a partnership, the partner having the largest percentage interest in the partnership shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(c) If a corporation, applicant shall be a domestic corporation or must have qualified to transact business in the State of California as a foreign corporation at the time of filing of the petition.

Except as otherwise provided in this chapter, upon compliance by an applicant with this chapter, the commission shall issue a permit.

SEC. 7. Section 3572.5 is added to the Public Utilities Code, to read:

3572.5. Any person or corporation operating as a radial highway common carrier on the effective date of this section, may on or before December 31, 1978, file an application for a highway contract carrier permit. In lieu of all other fees required by law, the applicant shall pay a fee of twenty-five dollars ($25). Except as provided in Section 3542, the commission shall thereafter issue to the applicant a permit authorizing operation as a highway contract carrier, if it finds that such carrier was in bona fide operation as a radial highway common carrier on July 1, 1978, and continuously thereafter to date of filing.

Upon the issuance of the highway contract carrier permit, the radial highway common carrier permit held by the applicant shall be revoked.

SEC. 8. Section 3575 of the Public Utilities Code is amended to read:

3575. Every highway contract carrier, dump truck carrier, livestock carrier, agricultural carrier, and cement contract carrier who engages subhaulers or leases equipment from employees shall file with the commission a bond, the amount of which shall be determined by the commission but which shall be not less than two thousand dollars ($2,000), executed by a qualified surety insurer, subject to the approval of the commission, which bond shall secure the payment of the claims of subhaulers and employee–lessors of the

highway carrier; provided, however, that the aggregate liability of the surety for all such claims shall, in no event, exceed the sum of such bond.

SEC. 9. Section 3578 is added to the Public Utilities Code, to read:

3578. Any person or corporation holding a radial highway common carrier permit on the effective date of this section shall be authorized to continue operations under such permit, unless suspended or revoked by the commission, or otherwise terminated by law or act of the holder, but in no event longer than one year after January 1, 1978, except that if such permit holder shall have filed an application for a certificate authorizing operation as a highway common carrier pursuant to Section 1063.5, or for a permit authorizing operation as a highway contract carrier pursuant to Section 3572.5, operations may be continued pending action by the commission on such application. Such carriers, while operating under such radial highway common carrier permits, shall be subject to regulation as highway permit carriers under the provisions of this act.

SEC. 10. The title of Article 3.5 (commencing with Section 3581) of Chapter 1 of Division 2 of the Public Utilities Code is amended to read:

Article 3.5. Livestock Carriers and Agricultural Carriers

SEC. 11. Section 3581 of the Public Utilities Code is amended to read:

3581. The transportation for compensation over any public highway in this state of ordinary livestock, or fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities in any motor vehicle or combination of vehicles is declared to be a highly specialized type of truck transportation. This article is enacted for the limited purpose of providing necessary regulations for this specialized type of transportation only, and it is not to be construed for any purpose as a precedent for the extension of such regulations to any other type of transportation.

SEC. 12. Section 3582 of the Public Utilities Code is amended to read:

3582. No livestock carrier or agricultural carrier shall engage in the business of transportation for compensation over any public highway in this state of livestock, or fresh fruits, nuts, vegetables, logs and unprocessed agricultural commodities in any motor vehicle or combination of vehicles unless there is in force a permit issued by the commission authorizing such operation.

SEC. 13. Section 3583 of the Public Utilities Code is amended to read:

3583. Application for permits to operate as a livestock carrier or an agricultural carrier shall be in writing, verified under oath, and shall be in such form, contain such information, and be accompanied by proof of service upon such interested parties as the commission requires.

SEC. 14. Section 3583.1 is added to the Public Utilities Code, to read:

3583.1. Any person or corporation operating as a highway carrier on the effective date of this section, who was engaged in business as an agricultural carrier during the preceding past year, shall file with the commission prior to December 31, 1978, an application for a permit to operate as an agricultural carrier. In lieu of all other fees required by law, the applicant shall pay a fee of twenty-five dollars ($25). The commission shall issue such permit authorizing operation within the area requested in the application without further proceedings.

SEC. 15. Section 3584 of the Public Utilities Code is amended to read:

3584. Except as provided in Section 3583, any highway carrier desiring a permit to operate as a livestock carrier or an agricultural carrier shall file an application therefor with the commission. The application shall set forth:

(a) The name and address of the applicant.

(b) The names and addresses of its officers, if any.

(c) Full information concerning the financial condition and physical properties of the applicant.

(d) Such other information necessary to the enforcement of this article as the commission may require.

Before a permit is issued, the commission shall require that the applicant establish its financial responsibility. The commission may, with or without hearing, issue or refuse to issue the permit. If the commission finds the applicant possesses the required financial responsibility to perform the operations proposed, it shall issue a permit. The commission may attach to the permit such terms and conditions as, in its judgment, are required to assure protection to persons utilitizing the operation.

No permit shall be issued unless it has been shown that the applicant meets one of the following residence requirements: If an individual, applicant shall have resided in the State of California for not less than 90 days next preceding the filing of the application. If a partnership, the partner with the largest percentage interest in the partnership shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the application. If a corporation, applicant shall be a domestic corporation or shall have qualified to transact business in the State of California as a foreign corporation at the time of filing of the application.

Except as otherwise provided in this article, upon compliance by an applicant with this section, the commission shall issue a permit.

SEC. 16. Section 3584.2 is added to the Public Utilities Code, to read:

3584.2. The commission shall issue a permit as a seasonal agricultural carrier or a seasonal livestock carrier to any applicant for such seasonal authority. Such seasonal permit shall authorize only the transportation of unprocessed agricultural commodities, including

livestock. Such seasonal permit shall not be issued for a period exceeding three calendar months and shall not be renewed more than twice in any calendar year.

SEC. 17. Section 3585 of the Public Utilities Code is amended to read:

3585. No permit to operate as a livestock carrier or an agricultural carrier shall be sold, leased, assigned, transferred or otherwise encumbered by the holder thereof until such holder files with the commission a written application requesting authority to sell, lease, assign, transfer or otherwise encumber such operating authority and secures therefrom an order so authorizing. The commission shall authorize the sale, lease, assignment, or transfer of livestock carrier or agricultural carrier operating authority to the extent of the scope and the area of the operation of the holder thereof as determined by the commission, only upon a finding that the transferee meets all criteria requisite to approval of an original applicant, as set forth in Section 3584.

SEC. 18. Section 3586 of the Public Utilities Code is amended to read:

3586. Any operating permit not excercised for a period of one year, inclusive of all periods of suspension, shall lapse and terminate and shall be revoked by the commission. Nonexercise of a permit shall be presumed from nonpayment of the fees required by Chapter 6 (commencing with Section 5001) of Division 2 for four consecutive quarters.

SEC. 19. Section 5004 of the Public Utilities Code is amended to read:

5004. The following fees shall be paid to the commission, pursuant to permits issued under the Highway Carriers' Act, Chapter 1 (commencing with Section 3501) of Division 2 of this code.

Five hundred dollars ($500) for filing each application for a permit, except applications for a seasonal permit.

One hundred fifty dollars ($150) for filing each application to sell, mortgage, lease, assign, transfer, or otherwise encumber any permit, except that for the transfer of each permit subsequent to the death of a permittee, and after court approval of the distribution of the estate or when it is not necessary to probate the will or distribute the estate through court, the fee is twenty-five dollars ($25).

Twenty-five dollars ($25) for filing each application for issuance or renewal of a permit to operate as an agricultural carrier or livestock carrier on a seasonal basis, as authorized by Section 3584.2.

SEC. 20. The Public Utilities Commission shall report to the Legislature by January 1, 1981, on the changes it has made in the regulation of trucking since 1976, and the effect of such changes on the trucking industry.

CHAPTER 841

An act to add Section 2458.2 to the Business and Professions Code, relating to renewal of medical practitioner's license.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 2458.2 is added to the Business and Professions Code, to read:

2458.2. (a) The Division of Licensing shall notify in writing by certified mail, return receipt requested, any physician who does not renew his or her license within 60 days from its date of expiration.

(b) Notwithstanding Section 163.5, any physician who does not renew his or her expired license within 90 days of its date of expiration shall pay the following fees:

(1) The biennial renewal fee in effect at the time of renewal; and,

(2) A penalty fee equal to 50 percent of the biennial renewal fee; and

(3) The delinquency fee required by Section 2458.

(c) Notwithstanding any other provision of law the renewal of any expired license within six months from its date of expiration shall be retroactive to the date of expiration of that license. The Division of Licensing, for good cause, may waive the 50 percent penalty fee and may extend retroactivity up to two years from the expiration date of the license.

CHAPTER 842

An act relating to forgiving a debt owed by Inyo County to the State of California and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977.]

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

SECTION 1. The debt of one hundred thousand dollars ($100,000) owed by Inyo County to the Department of Benefit Payments is hereby canceled.

SEC. 2. The Legislature hereby finds and declares that a general law would not apply to the special facts here involved and that alleviation of the hardship which would otherwise be imposed on Inyo County is a public purpose.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The State of California overpaid the county hospital of Inyo County by the above amount and the county does not possess nor can they raise funds necessary for repayment without imposing serious financial hardship on the county. This bill is urgently needed to avoid this hardship.

CHAPTER 843

An act to amend Sections 4033, 4036, 4145, 4213, 4227, 4228, 4230, 4231, and 4232 of, and to add and repeal Sections 2725.1, 3502.1, and 4037.1 of, the Business and Professions Code, and to amend Sections 429.71, 429.77, 429.78, 11026, 11122, 11150, 11173, 11210, 11250, 11251, 11377, and 11379 of the Health and Safety Code, relating to experimental health manpower projects.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 2725.1 is added to the Business and Professions Code, to read:

2725.1. The scope of practice of a registered nurse shall include the prescribing, dispensing, and administration of drugs or devices when the nurse is engaged in an experimental health manpower project authorized under Article 18 (commencing with Section 429.70) Chapter 2 of Part 1 of Division 1 of the Health and Safety Code and is acting within the scope of such project as defined by the Department of Health. No registered nurse shall prescribe drugs except under the general supervision of a licensed physician and surgeon.

This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 2. Section 3502.1 is added to the Business and Professions Code, to read:

3502.1. A physician's assistant is authorized to prescribe, dispense, and administer drugs or devices when the physician's assistant is engaged in an experimental health manpower project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code and is acting within the scope of such project as defined by the Department of Health. No physician's assistant shall prescribe drugs except under the general supervision of a licensed physician and surgeon.

This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 3. Section 4033 of the Business and Professions Code is

amended to read:

4033. "Physicians," "dentists," "pharmacists," "podiatrists," "veterinarians," "veterinary surgeons," "registered nurses," and "physician's assistants" are persons authorized by a currently valid and unrevoked license to practice their respective professions in this state. "Physicians" means and includes any person holding a valid and unrevoked physician's and surgeon's certificate or certificate to practice medicine and surgery, issued by the Board of Medical Quality Assurance or the Board of Osteopathic Examiners of this state, and includes an unlicensed person lawfully practicing medicine pursuant to Section 2147.5 of this code, when acting within the scope of said section.

SEC. 4. Section 4036 of the Business and Professions Code is amended to read:

4036. "Prescription" means an oral order given individually for the person for whom prescribed, directly from the prescriber to the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name and address of the patient, the name and quantity of the drug or device prescribed, directions for use, and the date of issue, and either rubber stamped, typed, or printed by hand or typeset the name, address, and telephone number of the prescriber, his license classification, and his federal registry number, if a controlled substance is prescribed. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, shall prescribe or write a prescription.

Nothing in the amendments made to this section at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right which a chiropractor, while acting within the scope of his license, may have to prescribe a device.

Except as provided in Section 4036.1, an oral prescription shall as soon as practicable be reduced to writing by the pharmacist and shall be filed by, or under the direction of, the pharmacist.

SEC. 5. Section 4037.1 is added to the Business and Professions Code, to read:

4037.1. The scope of practice of a registered pharmacist shall include the prescribing, dispensing, and administration of drugs or devices when the pharmacist is engaged in an experimental health manpower project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code and is acting within the scope of such project as defined by the Department of Health. No pharmacist shall prescribe drugs

except under the general supervision of a licensed physician and surgeon. This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 6. Section 4145 of the Business and Professions Code is amended to read:

4145. No hypodermic needle or hypodermic syringe shall be sold at retail except upon the prescription of a physician and surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

SEC. 7. Section 4213 of the Business and Professions Code is amended to read:

4213. "Administer," as used in this article, means the furnishing by a physician and surgeon, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code to his patient of such amount of drugs or medicines referred to in this article as are necessary for the immediate needs of the patient.

SEC. 8. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1

of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board. The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this subdivision shall be liable upon order of the board to surrender his personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

SEC. 9. Section 4228 of the Business and Professions Code is amended to read:

4228. (a) Except as provided in subdivision (b) of this section, no person shall dispense any dangerous drug upon prescription except in a container correctly labeled with the information required by Sections 4047.5 and 4048.

(b) Physicians, dentists, podiatrists, and veterinarians, and pharmacists acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurses acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistants acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division

1 of the Health and Safety Code, may personally furnish any dangerous drug prescribed by them to the patient for whom prescribed, provided that such drug is properly labeled to show all information required in Sections 4047.5 and 4048 except the prescription number.

SEC. 10. Section 4230 of the Business and Professions Code is amended to read:

4230. No person shall have in possession any preparation included in subdivision (a) or (c) of Section 4211 except that furnished to such person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code. The provisions of this section do not apply to the possession of any drug defined in subdivision (a) or (c) of Section 4211 by a manufacturer or wholesaler or a pharmacy or physician or podiatrist or dentist or veterinarian or laboratory or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code when in stock in containers correctly labeled with the name and address of the supplier or producer.

SEC. 11. Section 4231 of the Business and Professions Code is amended to read:

4231. All stock of any dangerous drug of a manufacturer, wholesaler, pharmacy, physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, laboratory, shipments through a customs broker or carrier shall be at all times during business hours open to inspection by authorized officers of the law.

SEC. 12. Section 4232 of the Business and Professions Code is

amended to read:

4232. All records of manufacture and of sale, purchase or disposition of dangerous drugs shall be at all times, during business hours, open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 3 (commencing with Section 1620) of Division 2 of, Chapter 2 (commencing with Section 2300) of Division 3 of, or Part 2 (commencing with Section 5699) of Division 6 of, the Welfare and Institutions Code who maintains a stock of dangerous drugs.

Any person who fails, neglects, or refuses to maintain such records or who, when called upon by an authorized officer or a member of the board, fails, neglects or refuses to produce such records within a reasonable time, or who willfully produces or furnishes records which are false, is guilty of a misdemeanor.

SEC. 13. Section 429.71 of the Health and Safety Code is amended to read:

429.71. For the purposes of this article:

(a) "Approved project" means an educational or training program approved by the state department which does any of the following on a pilot program basis:

(1) Teaches new skills to existing categories of health care personnel.

(2) Develops new categories of health care personnel.

(3) Accelerates the training of existing categories of health care personnel.

(4) Teaches new health care roles to previously untrained persons, and which has been so designated by the department.

(b) "Trainee" means a person to be taught health care skills.

(c) "Supervisor" means a person designated by the project sponsor who already possess the skills to be taught the trainees and is certified or licensed in California to perform the health care tasks involving such skills.

(d) "Health care services" means the practice of medicine, dentistry, nursing, including, but not limited to, specialty areas of nursing such as midwifery, pharmacy, optometry, podiatry, and psychology.

SEC. 14. Section 429.77 of the Health and Safety Code is amended to read:

429.77. (a) Pilot projects may be approved in the following fields:

(1) Expanded role medical auxiliaries.

(2) Expanded role nursing.

(3) Expanded role dental auxiliaries.

(4) Maternal child care personnel.

(5) Pharmacy personnel.

(6) Mental health personnel.

(7) The prescribing, dispensing, and administering of drugs or devices by registered nurses, physician's assistants, or pharmacists. No pilot project involving such prescription, dispensing, or administration by registered nurses, physician's assistants, or pharmacists shall be approved after January 1, 1983, unless it is otherwise within the scope of licensure of such personnel. Prescribing by registered nurses, physician's assistants, or pharmacists shall be specifically approved or denied as within the scope of any pilot project authorized after the effective date of amendments made to this section at the 1977–78 Regular Session of the Legislature and until January 1, 1983. If prescribing of drugs or devices is authorized, any excluded drugs or devices shall be specified. No registered nurse, physician's assistant, or pharmacist shall be authorized to prescribe any controlled substances included in Schedule I, II, or III as defined in Section 11054, 11055, or 11056 of this code, or any narcotic drug in Schedule IV or V as defined in Section 11057 or 11058 of this code, or any poison as defined in Section 4160 of the Business and Professions Code. No more than two projects for pharmacists, three projects for physician's assistants, or five projects for registered nurses shall be approved under this paragraph. All statutory and regulatory requirements relating to proper storage, security, recordkeeping, labeling, and otherwise safely handling drugs and devices shall be complied with by any persons authorized to prescribe, dispense, or administer drugs or devices pursuant to this paragraph.

(8) Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b) Projects shall be given priority which operate in rural and central city areas.

SEC. 15. Section 429.78 of the Health and Safety Code is amended to read:

429.78. The state department shall carry out periodic onsite visitations of each approved project and shall evaluate each project to determine the following:

(a) The new health skills taught or extent to which existing skills have been reallocated.

(b) Implication of the project for existing licensure laws with

suggestions for changes in the law where appropriate.

(c) Implications of the project for health services curricula and for the health care delivery systems.

(d) Teaching methods used in the project.

(e) The quality of care and patient acceptance in the project.

(f) The extent to which persons with the new skills could find employment in the health care system, assuming laws were changed to incorporate their skill.

(g) The cost of care provided in the project, the likely cost of such care if performed by the trainees subsequent to the project, and the cost for provision of such care by current providers thereof.

The state department shall report to the Legislature and appropriate licensing boards annually beginning July 1, 1974, concerning the results of each evaluation.

SEC. 16. Section 11026 of the Health and Safety Code is amended to read:

11026. "Practitioner" means any of the following:

(a) A physician, dentist, veterinarian, podiatrist, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

SEC. 17. Section 11122 of the Health and Safety Code is amended to read:

11122. (a) A controlled substance shall be stored only in a warehouse which is licensed by the Board of Pharmacy.

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

(1) Any pharmacy or other person who is licensed or authorized by this state to sell or furnish the controlled substance upon the written prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

(2) Any physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 who possesses a controlled substance for administration to his patients.

(3) Any licensed laboratory in this state which is authorized to receive and use the controlled substance.

(4) Any licensed hospital in this state.

(5) Any person who obtains the controlled substance upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 for his personal use.

(6) Any agent or employee of any licensed manufacturer or wholesaler who possesses the controlled substance for display purposes or furnishes such controlled substances as a sample at no cost to a licensed pharmacist, physician, dentist, podiatrist, or veterinarian, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

(7) A manufacturer licensed pursuant to Section 26685 of this code or Section 4084 or 4084.6 of the Business and Professions Code.

(8) A wholesaler licensed pursuant to Section 4084 or 4084.6 of the Business and Professions Code.

SEC. 18. Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 shall write a prescription.

SEC. 19. Section 11173 of the Health and Safety Code is amended to read:

11173. (a) No person shall obtain or attempt to obtain controlled

substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

(c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant, or other authorized person.

(d) No person shall affix any false or forged label to a package or receptacle containing controlled substances.

SEC. 20. Section 11210 of the Health and Safety Code is amended to read:

11210. A physician, surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 may prescribe for, furnish to, or administer controlled substances to his patient when the patient is suffering from a disease, ailment, injury, or infirmities attendant upon old age, other than addiction to a controlled substance.

The physician, surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 shall prescribe, furnish, or administer controlled substances only when in good faith he believes the disease, ailment, injury, or infirmity, requires such treatment.

The physician, surgeon, dentist, veterinarian, or podiatrist, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 shall prescribe, furnish, or administer controlled substances only in such quantity and for such length of time as are reasonably necessary.

SEC. 21. Section 11250 of the Health and Safety Code is amended to read:

11250. No prescription is required in case of the sale of controlled substances at retail in pharmacies by pharmacists to any of the following:

(a) Physicians.

(b) Dentists.

(c) Podiatrists.

(d) Veterinarians.

(e) Pharmacists acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurses acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistants acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

In any sale mentioned in this article, there shall be executed any written order that may otherwise be required by federal law relating to the production, importation, exportation, manufacture, compounding, distributing, dispensing, or control of controlled substances.

SEC. 22. Section 11251 of the Health and Safety Code is amended to read:

11251. No prescription is required in case of sales at wholesale by pharmacies, jobbers, wholesalers and manufacturers to any of the following:

(a) Pharmacies as defined in the Business and Professions Code.

(b) Physicians.

(c) Dentists.

(d) Podiatrists.

(e) Veterinarians.

(f) Other jobbers, wholesalers or manufacturers.

(g) Pharmacists acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurses acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistants acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

SEC. 23. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, other than any substance specified in paragraph (6) of subdivision (b) of Section 11056, and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12),

and (17) of such subdivision, or specified in subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance specified in paragraph (6) of subdivision (b) of Section 11056, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 licensed to practice in this state, shall be punished by a fine of not exceeding five hundred dollars ($500), or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

SEC. 24. Section 11379 of the Health and Safety Code is amended to read:

11379. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, manufactures, compounds, furnishes, administers, or gives away, or offers to transport, import into this state, sell, manufacture, compound, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1

of Division 1 licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years.

SEC. 25. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 844

An act to amend Section 1430 of, and to add Section 1431 to, the Water Code, relating to water rights, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Section 1430 of the Water Code is amended to read:

1430. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation in the discretion of the board. Any temporary permit shall automatically expire 180 days after the date of its issuance, unless an earlier date is specified or it has been revoked.

SEC. 2. Section 1431 is added to the Water Code, to read:

1431. A temporary permit issued under this chapter may be renewed by the board. Requests for renewals shall be processed in the manner provided by this chapter except that the permittee shall not be required to file duplicate maps, drawings or other data if they were furnished with the original application. Each such renewal shall be valid for a period not to exceed 180 days from the date of renewal.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Many areas of the state are obtaining emergency water supplies pursuant to temporary permits to supplement sources which are not available because of drought conditions. Many of these temporary permits will expire without possibility of renewal during the late summer when these emergency supplies are needed the most. This act provides for further permit renewals for limited periods. It is necessary, therefore, that the provisions of this act go into immediate effect.

CHAPTER 845

An act to amend Sections 18304, 18401, 18500, 18550, 18601, 18610, and 18612 of, to add Chapter 1.5 (commencing with Section 18250) to Part 2.1 of Division 13 of, to repeal and add Article 5 (commencing with Section 18640) of Chapter 5 of Part 2.1 of Division 13 of, to repeal Article 7 (commencing with Section 18680) of Chapter 5 of Part 2.1 of Division 13 of, and to repeal Sections 18302, 18600, and 18611 of, the Health and Safety Code, relating to mobilehome parks.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. Chapter 1.5 (commencing with Section 18250) is added to Part 2.1 of Division 13 of the Health and Safety Code, to read:

CHAPTER 1.5. FINDINGS AND PURPOSES

18250. The Legislature finds and declares that increasing numbers of Californians live in mobilehomes and that most of those living in such mobilehomes reside in mobilehome parks. Because of the high cost of moving mobilehomes, most owners of mobilehomes reside within mobilehome parks for substantial periods of time. Because of the relatively permanent nature of residence in such parks and the substantial investment which a mobilehome represents, residents of mobilehome parks are entitled to live in conditions which assure their health, safety, general welfare, and a decent living environment, and which protect the investment of their mobilehomes.

18251. The Legislature finds and declares that the standards and requirements established for construction, maintenance, occupancy, use, and design of mobilehome parks should guarantee mobilehome park residents maximum protection of their investment and a decent living environment. At the same time, the standards and requirements should be flexible enough to accommodate new technologies and to allow designs that reduce costs and enhance the living environment of mobilehome park residents.

18252. The Legislature finds and declares that inclusion of specific standards within a statute often precludes the rapid and flexible action needed to correct substandard conditions, and that it is desirable to delete outdated requirements, and to add new and useful requirements designed to protect the health, safety, and general welfare of mobilehome park residents or to encourage use

of new technologies in the development of mobilehome parks.

18253. The Legislature finds and declares that the specific standards relating to construction, maintenance, occupancy, use, and design of mobilehome parks are best prescribed by the Commission of Housing and Community Development in accordance with the criteria established by the provisions of this part. Placing such authority with the commission will allow for modifications of specific standards in a rapid fashion and in a manner responsive to the needs of mobilehome park residents and owners.

18254. It shall be the purpose of the provisions of this part to (1) assure protection of the health, safety, and general welfare of mobilehome park residents and (2) allow modifications in regulations adopted pursuant to the provisions of this part in a manner consistent with the criteria established in this part. The regulations adopted by the commission pursuant to the authority granted in this part shall provide equivalent or greater protection to residents of mobilehome parks than the statutes and regulations in effect prior to the effective date of this section.

SEC. 2. Section 18302 of the Health and Safety Code is repealed.

SEC. 3. Section 18304 of the Health and Safety Code is amended to read:

18304. (a) This part does not apply to any apartment house, hotel, or dwelling which is subject to the provisions of Part 1.5 (commencing with Section 17910) of this division, or to any mobilehome accommodation structure which is subject to the provisions of Part 2.2 (commencing with Section 18800) of this division.

(b) This part does not apply to electric, gas, or water facilities owned, operated, and maintained by a public utility.

SEC. 4. Section 18401 of the Health and Safety Code is amended to read:

18401. The enforcement agency shall notify the mobilehome owner or occupant of any violations of the provisions of this part or of any rules or regulations issued pursuant to this part applicable to a mobilehome, accessory structure, or other appurtenance owned, occupied, or under such person's control. The notification shall include a statement that any willful violation of such provisions is a misdemeanor under Section 18700 of the Health and Safety Code.

SEC. 5. Section 18500 of the Health and Safety Code is amended to read:

18500. It is unlawful for any person to do any of the following unless he has a valid permit issued by the enforcement agency:

(a) Construct a mobilehome park.

(b) Construct additional buildings or lots, alter buildings, lots or other installations, in an existing mobilehome park.

(c) Operate, occupy, rent, lease, sublease, let out or hire out for occupancy any lot in a mobilehome park that has been constructed, reconstructed or altered without having obtained a permit as required herein.

(d) Operate a mobilehome park or any portion thereof.

This section shall not apply to any labor camp having a valid annual permit to operate.

SEC. 7. Section 18550 of the Health and Safety Code is amended to read:

18550. It shall be unlawful for any person to use or cause, or permit to be used for occupancy, any of the following mobilehomes, wherever such mobilehomes are located:

(a) Any mobilehome from which any axle or wheel hub has been removed therefrom except for the purpose of making temporary repairs or placing it in dead storage.

(b) Any mobilehome supplied with fuel, gas, water, electricity, or sewage connections, unless such connections and installations conform to regulations of the commission.

(c) Any mobilehome which is permanently attached with underpinning or foundation to the ground.

(d) Any mobilehome which does not conform to the registration requirements of the Vehicle Code. A mobilehome which may be moved under permit as provided for in Sections 35780 and 35790 of the Vehicle Code shall be deemed to conform to the requirements of such code within the meaning of this section.

(e) Any mobilehome in an unsanitary condition.

(f) Any mobilehome which is structurally unsound and does not protect its occupants against the elements.

(g) Any mobilehome which does not have a current annual vehicle license.

SEC. 8. Section 18600 of the Health and Safety Code is repealed.

SEC. 9. Section 18601 of the Health and Safety Code is amended to read:

18601. The commission shall adopt regulations to insure adequate animal control within mobilehome parks.

SEC. 10. Section 18610 of the Health and Safety Code is amended to read:

18610. The commisson shall adopt regulations to govern the construction, use, occupancy, and maintenance of mobilehome parks and lots within such parks. Such regulations shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks. Such regulations shall be adopted by July 1, 1978, and shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 11. Section 18611 of the Health and Safety Code is repealed.

SEC. 12. Section 18612 of the Health and Safety Code is amended to read:

18612. The commission shall adopt regulations to govern mobilehome lot access and driveways within mobilehome parks. Such regulations shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks and shall require proper maintenance of lot

access and driveways. Such regulations shall be adopted by July 1, 1978, and shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 13. Article 5 (commencing with Section 18640) of Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code is repealed.

SEC. 14. Article 5 (commencing with Section 18640) is added to Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code, to read:

Article 5. Regulations

18640. The commission shall adopt regulations for public toilets, shower, and laundry facilities in mobilehome parks. Such regulations shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks, and shall require proper maintenance of such facilities. Such regulations shall be adopted by July 1, 1978, and shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 15. Article 7 (commencing with Section 18680) of Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code is repealed.

SEC. 16. The administrative regulations adopted under the provisions of this act shall go into effect on July 1, 1978. The provisions of existing law which are being repealed or amended by this act shall remain in effect and continue to be enforced until the administrative regulations adopted pursuant to the authority conferred by this act actually take effect.

CHAPTER 846

An act to repeal Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code, to add Sections 25130, 25131, 25402, and 25402.1 to, and to repeal Section 25402 of, the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code is repealed.

SEC. 2. Section 25130 is added to the Public Resources Code, to read:

25130. "Nonresidential" building means any building which is heated or cooled in its interior, and is of an occupancy type other

than Type H, I, or J, as defined in the Uniform Building Code, 1973 edition, as adopted by the International Conference of Building Officials.

SEC. 3. Section 25131 is added to the Public Resources Code, to read:

25131. "Residential building" means any hotel, motel, apartment house, lodginghouse, single- and dwelling, or other residential building which is heated or mechanically cooled.

SEC. 4. Section 25402 of the Public Resources Code is repealed.

SEC. 5. Section 25402 is added to the Public Resource Code, to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. Such standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt such revisions as in its judgment it deems necessary. In prescribing standards for insulation, the commission shall take into consideration the standards developed pursuant to Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of the Health and Safety Code, which standards shall only be operative until the date one year after the date that the commission adopts regulations for energy insulation for residential buildings pursuant to this subdivision. Six months after the commission adopts regulations pursuant to this subdivision, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section.

(b) Prescribe by regulation, energy conservation design standards for new residential and new nonresidential buildings. Such standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floor space, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt such revisions as in its judgment it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section.

(c) By regulation, prescribe standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. Such minimum

levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. Such standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of such standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with such standards. One year after the effective date of such standards, no new appliance, regardless of the date of manufacture, may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with such standards. Such standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500) of this division, unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of such chapter of the Health and Safety Code to the extent of such conflict.

SEC. 6. Section 25402.1 is added to the Public Resources Code, to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by various classes of buildings with various types of occupancies. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Include a prescriptive method of complying with the standards including design aids such as a manual, sample calculations and model structural designs. The prescriptive program shall be based on the standards developed pursuant to Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as it existed prior to the effective date of this section.

(c) Produce, no later than 180 days after adoption of the standards, an energy conservation manual for use by designers, builders, and contractors of nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs

of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(d) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of such services.

(e) The provisions of subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivisions (a) and (b) of Section 25402 and this section applicable to such building.

(2) Where there is no such local building department the commission shall enforce the provisions of subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto the commission may provide such enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs

incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission) may establish a schedule of fees sufficient to pay the costs incurred by such enforcement.

(f) The provisions of subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to such buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of local energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section provided that the commission finds that such standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections.

(g) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of such regulations.

(h) Should a dispute arise between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(i) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to the effective date of this section.

SEC. 8. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act, because the legislative body of each local governmental

entity has the authority to regulate fees charged for the inspections required to be conducted by this act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Regulations adopted on November 3, 1976, would, under existing law, prohibit the sale of any refrigerator, freezer, or air conditioner not complying with the regulations after November 3, 1977. In order to allow such sales for an additional year it is necessary for this act to take effect immediately.

CHAPTER 847

An act to amend Sections 17920, 17922, and 17958.7 of, and to add Sections 17920.6, 17958.9, 17959.4, and 17959.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 15, 1977. Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 17920 of the Health and Safety Code is amended to read:

17920. As used in this part:

(a) "Building" means a structure subject to this part.

(b) "Commission" means the commission of Housing and Community Development.

(c) "Department" means the Department of Housing and Community Development.

(d) "Noise insulation" means the protection of persons within buildings from excessive noise, however generated, originating within or without such buildings.

(e) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code.

(f) "Substandard building" means any building or any portion of a building including, but not limited to, any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exist any of the conditions listed in Chapter 10 of the Uniform Housing Code, latest edition, including inadequate structural resistance to horizontal forces, to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof.

However, a condition which would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a

substandard building, unless the building was constructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration, or conversion.

Any wiring, plumbing, or mechanical equipment, including vents, shall be deemed to have conformed to applicable law in effect at the time of installation and to have been maintained in good condition if currently in good and safe condition and working properly.

SEC. 2. Section 17920.6 is added to the Health and Safety Code, to read:

17920.6. As used in this part, "housing appeals board" means the board or agency of a city or county which is authorized by the governing body of the city or county to hear appeals regarding the requirements of the city or county relating to the use, maintenance, and change of occupancy of hotels, motels, lodginghouses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, including requirements governing alteration, additions, repair, demolition, and moving of such buildings if also authorized to hear such appeals. In any area in which there is not such a board or agency, "housing appeals board" means the local appeals board having jurisdiction over such area.

SEC. 3. Section 17922 of the Health and Safety Code is amended to read:

17922. (a) Except as otherwise specifically provided by law, the rules and regulations adopted, amended, or repealed from time to time pursuant to this chapter shall impose substantially the same requirements as are contained in the most recent editions of the following uniform industry codes as adopted by the organizations specified:

(1) The Uniform Housing Code of the International Conference of Building Officials.

(2) The Uniform Building Code of the International Conference of Building Officials.

(3) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(4) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(5) The National Electrical Code of the National Fire Protection Association.

In promulgating regulations the commission shall consider local conditions and any amendments to the uniform codes referred to in this section. In the absence of adoption by regulation, the most recent editions of the uniform codes referred to in this section shall be considered to be adopted and in effect one year after the date of publication.

(b) Except as provided in Section 17959.5, local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are hereby specifically and entirely reserved to the local jurisdictions

notwithstanding any requirements found or set forth in this part.

(c) Regulations governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7 and does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements specified in this part, or in rules and regulations adopted pursuant to this part, for new buildings or structures. However, such additions and alterations shall not cause the building to exceed area or height limitations applicable to new construction.

SEC. 3.4. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. (a) The governing body of a city or county before making any modifications or changes pursuant to Section 17958.5 shall make an express finding that such modifications or changes are needed. Such a finding shall be available as a public record and a copy, together with the modification or change, filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department. Except as provided in Sections 17958.8 and 17958.9, nothing contained in this part shall be construed to require the governing body of any city or county to alter in any way building regulations enacted on or before November 23, 1970.

(b) If, prior to the effective date of this subdivision, the governing body of a city or county has filed the modification or change but has failed to file the express finding, the governing body shall file the express finding with the department within 90 days after the effective date of this subdivision. If the express finding is not so filed within such 90 days, the modification or change shall have no force or effect on and after such date.

SEC. 3.6. Section 17958.9 is added to the Health and Safety Code, to read:

17958.9. Local ordinances or regulations governing the moving of apartment houses and dwellings shall, after July 1, 1978, permit the retention of existing materials and methods of construction so long as the apartment house or dwelling complies with the rules and regulations of the commission or alternative local standards adopted pursuant to Section 17920.7, complies with the standards for foundation applicable to new construction, and does not become or continue to be a substandard building.

SEC. 4. Section 17959.4 is added to the Health and Safety Code, to read:

17959.4. The housing appeals board may, in cases of extreme hardship to owner-occupants of dwellings, provide for deferral of the effective date of orders of abatement. Any deferral of the effective date of an order of abatement under this section shall terminate upon any sale or transfer of the dwelling by the owner-occupant.

SEC. 5. Section 17959.5 is added to the Health and Safety Code, to read:

17959.5. The housing appeals board may, upon appeal or upon application by the owner, grant variances from local use zone requirements in order to permit an owner-occupant of a dwelling to construct an addition to a dwelling to meet occupancy standards relating the number of persons in a household to the number of rooms or bedrooms. This power of the housing appeals board shall be in addition to, and shall not otherwise affect, the powers of other governmental boards and agencies to allow local use zone variances.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because revenue is provided in Section 17921 of the Health and Safety Code to cover such costs.

CHAPTER 848

An act relating to school transportation apportionments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Notwithstanding the provisions of Section 41860 of the Education Code, a special apportionment for the cost of schoolbuses shall be made according to the following schedule for the North Monterey County Unified School District:

(a) June 30, 1977	$100,000.00
(b) July 31, 1977	$192,578.25
(c) July 31, 1978	$192,578.25
(d) July 31, 1979	$192,578.25
(e) July 31, 1980	$192,578.25

The scheduled apportionments may be proportionately reduced if such action is necessary in order to preclude exceeding the amounts available for apportionment by Section 41860 of the Education Code.

SEC. 2. The Legislature finds and declares that because of a unique situation which exists in a recently created unified school

district, the component districts of which did not have appropriate district owned transportation equipment, a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the North Monterey County Unified School District to receive the apportionments authorized by this act at the earliest possible time to provide pupil essential transportation services, it is necessary that it go into effect at the earliest possible date.

CHAPTER 849

An act to add Section 2705.1 to the Unemployment Insurance Code, relating to unemployment compensation disability insurance.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 2705.1 is added to the Unemployment Insurance Code, to read:

2705.1. Where an individual who would be eligible to receive disability benefits is mentally unable to make a claim therefor, the director shall, in accordance with authorized regulations, allow the filing of a claim for such benefits by the spouse of such individual, in the absence of any other legally authorized representative of the individual. Such payment shall be made upon affidavit executed by the spouse or person or persons claiming to be entitled to the benefits and the receipt of the affidavit or affidavits shall fully discharge the Director of Employment Development from any further liability with reference to the payments, without the necessity of inquiring into the truth of any of the facts stated in the affidavit.

For the purposes of this section "mentally unable to make a claim" shall be limited to those cases in which the individual is certified by a healing arts practitioner specified in Sections 2708 and 2709 to be mentally unable to make a claim pursuant to this part.

CHAPTER 850

An act to add Sections 15901 and 15901.5 to, and to repeal Section 15901 of, the Government Code, relating to state economic policy.

[Approved by Governor September 15, 1977 Filed with Secretary of State September 16, 1977]

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

SECTION 1. Section 15901 of the Government Code is repealed.

SEC. 2. Section 15901 is added to the Government Code, to read:

15901. The Governor shall transmit to the Legislature not later than January 20 of each year an economic message reviewing significant economic achievements of the past year, outlining problem areas, defining economic policy, and making such recommendations as he deems appropriate to further economic development or increase employment, income, and purchasing power of the state.

SEC. 3. Section 15901.5 is added to the Government Code, to read:

15901.5. (a) The Governor, utilizing his staff and the resources of state agencies, shall transmit annually to the Legislature not later than April 15 a supplement to his economic message to be designated as the "Economic Report of the Governor" setting forth:

(1) A review of economic developments during the preceding calendar year, including trends in employment, unemployment, income, and major economic sectors as appropriate;

(2) Forecasts of trends in employment, income, and prices for the coming year, and trends in such major economic sectors as it is feasible to present;

(3) Additional material on the California economy as may be pertinent and of general interest, with historical analysis and projections of use in economic planning whenever possible.

(4) A report from the secretary of each agency listed in Section 12800 defining the policies of the agency and its subordinate departments, boards, and offices as they relate to the economic development of the state and actions taken during the past year to implement those policies together with recommendations for legislative action to implement the policy set forth in Section 15900.

(5) A summary list of problems relating to the state economy which the Governor deems appropriate for legislative review, but concerning which he is making no recommendation in his economic message.

(b) The Governor may transmit from time to time to the Legislature reports supplementary to the economic report, each of which shall include a statement on the current status of the California economy with respect to employment, income, and prices, and supplementary or revised recommendations as he may deem

necessary or desirable to achieve the policy declared in the policy for economic development.

SEC. 4. Section 15901.5 is added to the Government Code, to read:

15901.5. (a) The Governor, utilizing his staff and the resources of state agencies, shall transmit annually to the Legislature not later than April 15 a supplement to his economic message to be designated as the "Economic Report of the Governor" setting forth:

(1) A review of economic developments during the preceding calendar year, including trends in employment, unemployment, income, and major economic sectors as appropriate;

(2) Forecasts of trends in employment, income, and prices for the coming year, and trends in such major economic sectors as it is feasible to present;

(3) Additional material on the California economy as may be pertinent and of general interest, with historical analysis and projections of use in economic planning whenever possible.

(4) A report from the secretary of each agency listed in Section 12800 defining the policies of the agency and its subordinate departments, boards, and offices as they relate to the economic development of the state and actions taken during the past year to implement those policies together with recommendations for legislative action to implement the policy set forth in Section 15900.

(5) A summary list of problems relating to the state economy which the Governor deems appropriate for legislative review, but concerning which he is making no recommendation in his economic message.

(6) A summary of the contingency plan for emergency public works submitted pursuant to Section 15798, as revised by him, and a statement which estimates the probability of implementation of all or part of such contingency plan during the ensuing year and which sets forth the economic and other criteria under which he will order such plan implemented if he deems it necessary and appropriate to do so.

(b) The Governor may transmit from time to time to the Legislature reports supplementary to the economic report, each of which shall include a statement on the current status of the California economy with respect to employment, income, and prices, and supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in the policy for economic development.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 760 are both chaptered and become effective January 1, 1978, if this bill repeals Section 15901 of and adds Sections 15901 and 15901.5 to the Government Code, if Senate Bill No. 760 amends Section 15901 of the Government Code, and if this bill is chaptered after Senate Bill No. 760, that the changes in both bills reflected in these sections be given effect and incorporated in Section 15901.5 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become

operative only if this bill and Senate Bill No. 760 are both chaptered and become effective January 1, 1978, if this bill repeals Section 15901 and adds Sections 15901 and 15901.5 and Senate Bill No. 760 amends Section 15901, and if this bill is chaptered after Senate Bill No. 760, in which event Section 3 of this act shall not become operative.

CHAPTER 851

An act to amend Section 1420.1 of, and add Section 1420.15 to, the Labor Code, relating to voluntary retirement.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 16, 1977]

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

SECTION 1. The Legislature of the State of California finds and declares that the use of chronological age as an indicator of ability to perform on the job and the practice of mandatory retirement from employment are obsolete and cruel practices. The downward trend toward involuntary retirement at ages from 55 years represents a highly undesirable development in the utilization of California's worker resources. In addition, this practice is now imposing serious stresses on our economy and in particular on pension systems and other income maintenance systems.

SEC. 2 Section 1420.1 of the Labor Code is amended to read:

1420.1. (a) It is an unlawful employment practice for an employer to refuse to hire or employ, or to discharge, dismiss, reduce, suspend, or demote, any individual over the age of 40 on the ground of age, except in cases where the law compels or provides for such action. This section shall not be construed to make unlawful the rejection or termination of employment where the individual applicant or employee failed to meet bona fide requirements for the job or position sought or held, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or for two years after the effective date of this section, whichever occurs first, nor shall this section preclude such physical and medical examinations of applicants and employees as an employer may make or have made to determine fitness for the job or position sought or held.

Promotions within the existing staff, hiring or promotion on the basis of experience and training, rehiring on the basis of seniority and prior service with the employer, or hiring under an established recruiting program from high schools, colleges, universities, and trade schools shall not, in and of themselves, constitute a violation of this section.

(b) This section shall not limit the right of an employer,

employment agency, or labor union to select or refer the better qualified person from among all applicants for a job. The burden of proving a violation of this section shall be upon the person or persons claiming that the violation occurred.

(c) The age limitations of the apprenticeship programs in which the state participates shall not be deemed to violate this section.

SEC. 3. Section 1420.15 is added to the Labor Code, to read:

1420.15. Every employer in this state, except a public agency, shall permit any employee who indicates in writing a desire in a reasonable time and can demonstrate the ability to do so, to continue his employment beyond the normal retirement date contained in any private pension or retirement plan.

Such employment shall continue so long as the employee demonstrates his ability to perform the functions of the job adequately and the employer is satisfied with the quality of work performed.

This section shall not be construed to require any change in funding, benefit levels, or formulas of any existing retirement plan, or to require any employer to increase such employer's payments for the provision of insurance benefits contained in any existing employee benefit or insurance plan, by reason of such employee's continuation of employment beyond the normal retirement date, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or for two years after the effective date of this section, whichever occurs first.

Any employee indicating such desire and continuing such employment shall give the employer written notice in reasonable time, of intent to retire or terminate when such retirement or termination occurs after the employee's normal retirement date.

CHAPTER 852

An act to add Section 23922 to the Education Code, to amend Section 21258.1 of, and to add Sections 20983.5, 20983.6, 31671.03 and 45346 to the Government Code, relating to voluntary retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 16, 1977.]

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

SECTION 1. The Legislature of the State of California finds and declares that the use of chronological age as an indicator of ability to perform on the job and the practice of mandatory retirement from employment are obsolete and cruel practices. The downward trend toward involuntary retirement at ages from 55 years represents a

highly undesirable development in the utilization of California's worker resources. In addition, this practice is now imposing serious stresses on our economy and in particular on pension systems and other income maintenance systems.

SEC. 2. Section 23922 is added to the Education Code, to read:

23922. Notwithstanding any other provision of law, any member who has attained age 65 and desires to continue in employment beyond the age of normal retirement shall have the right to do so upon the certification by his employer pursuant to rules and regulations adopted by each respective retirement board or governing body that he is competent to do so and the filing of a notice from the member and his employer that the member is continuing in employment. Employer and member contributions shall continue until retirement.

SEC. 3. Section 20983.5 is added to the Government Code, to read:

20983.5. Notwithstanding any provision of law, every state member who has attained age 67, other than a patrol or state safety member, shall have the right to continue in employment upon certification of the member's competence in his position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by the State Personnel Board, the Regents of the University of California, or Trustees of the California State University and Colleges with respect to employees under their respective jurisdictions. In such case, the effective date of retirement shall be delayed until the day following the last day for which salary is payable. The member shall be subject to the same rights and liabilities as all other members and employer and members contributions shall continue until retirement or until death before retirement.

SEC. 4. Section 20983.6 is added to the Government Code, to read:

20983.6. Notwithstanding any other provisions of law, every local member who has attained age 67, other than a local safety member, shall have the right to continue in employment upon certification of the member's competence in the member's position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by each respective governing body. In such case, the effective date of retirement shall be delayed until the day following the last day for which salary is payable. The member shall be subject to the same rights and liabilities as all other members and employer and member contributions shall continue until retirement or until death before retirement.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the effective date of this section, by express provision in such contract

making the contracting agency subject to the provisions of this section.

SEC. 4.5. Section 21258.1 of the Government Code is amended to read:

21258.1. (a) The retirement allowance referred to in this section excludes that portion of a member's service retirement annuity that was purchased by his accumulated additional contributions.

(b) If a member entitled to credit for prior service retires on or after July 1, 1971, and after attaining the compulsory age for service retirement applicable to him, or if there is no compulsory age for service retirement applicable to the member and the member attains age 67, or if a member is entitled to be credited with 20 years of continuous state service and retires after attaining age 60, and his retirement allowance is less than one thousand two hundred dollars ($1,200) per year and less than his final compensation, his prior or current service pension, as the case may be, shall be increased so as to cause his total retirement allowance from this system, and from the retiring annuities system of the university, if any, to amount to one thousand two hundred dollars ($1,200) per year, or his final compensation, whichever is less.

If a member to whom this section applies is employed by more than one employer, his aggregate retirement allowances shall be taken into account irrespective of the employer.

SEC. 5. Section 31671.03 is added to the Government Code, to read:

31671.03. Notwithstanding any provision of law, every member other than a safety member may have the right to continue in employment upon certification of the member's competence in his position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by each respective governing body. In such case, the receipt of all retirement benefits shall be delayed until the actual termination of employment. The member shall be subject to the same rights and liabilities as all other members and employer and member contributions, if any, shall continue until retirement.

SEC. 6. Section 45346 is added to the Government Code, to read:

45346. Notwithstanding any provision of law, every member of a city retirement system, other than one whose duties fall within the scope of active law enforcement or active firefighting and prevention service, may have the right to continue in employment upon certification of the member's competence in his position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by each respective governing body. In such case, the receipt of all retirement benefits shall be delayed until the actual termination of employment. The member shall be subject to the same rights and liabilities as all other members and employer and members contributions shall continue until retirement.

SEC. 7. Notwithstanding Section 2231 of the Revenue and

Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

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

In order that as many persons as possible may take advantage of the provisions of this bill, the bill must take effect immediately.

CHAPTER 853

An act to amend Sections 41840 and 42238 of the Education Code, to amend Sections 27423, 51100, 51110.1, 51113, 51113.5, 51119, 51119.5, 51121, 51133, 51134, 51230, and 51246 of, to add Section 51110.3 to, to add Article 6 (commencing with Section 51150) to Chapter 6.7 of Part 1 of Division 1 of Title 5 of, to repeal Section 51132 of, the Government Code, to amend Sections 434.5, 435, 437, 17299.1, 18052.2, 24441, 24916.2, 38115, 38202, 38204, 38205, 38303, 38351, 38902, 38904, 38905, 38906, and 38907 of the Revenue and Taxation Code, and to add Section 17.5 to Chapter 176 of the Statutes of 1976, relating to timber taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 41840 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is amended to read:

41840. The allowance for each unit of average daily attendance during the 1976–77 fiscal year for adults, as adults are defined in Section 52610, for high school districts shall be the adult foundation program of eight hundred sixty-two dollars ($862) less the product of one dollar ($1) multiplied by each one hundred dollars ($100) of the assessed valuation of the district, pursuant to Section 41760.5, as modified pursuant to Section 41201, per unit of total regular high school average daily attendance plus adult average daily attendance. The total of state aid shall not be less than one hundred twenty-five dollars ($125) per unit of average daily attendance.

For each subsequent fiscal year, the foundation program for adults in high schools for the previous fiscal year shall be increased by the same percentage increase by which the high school foundation program is increased.

SEC. 2. Section 42238 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is amended to read:

42238. For the 1974–75 fiscal year and each fiscal year thereafter, (a) the maximum general purpose tax rate for each elementary, high, and unified school district in the county shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined by the Superintendent of Public Instruction pursuant to this subdivision. For elementary school districts, it shall be the foundation program for districts which have an average daily attendance of 901 or more. For high school districts it shall be the foundation program for districts with an average daily attendance of 301 or more. For unified districts, it shall be the sum of (1) the foundation program of elementary districts which have an average daily attendance of 901 or more multiplied by the elementary foundation program units of average daily attendance of unified districts in the second principal apportionment, plus (2) the foundation program for high school districts with an average daily attendance of 301 or more multiplied by the high school foundation program units of average daily attendance of unified districts in the second principal apportionment divided by the sum of the elementary and high school units of average daily attendance of unified districts in the second principal apportionment.

(d) The inflation adjustment shall be based on the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district and the sum multiplied by the estimated foundation program average daily attendance of the budget year. The product shall be the revenue limit of the district for the budget year.

(g) Any district which has a revenue limit computed pursuant to subdivision (f) which is equal to or less than the foundation program computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840 as adjusted pursuant to subdivision (e) of Section 14002 may increase its revenue limit

computed pursuant to subdivision (f) to the lesser of the foundation program level of the district or the prior year revenue limit increased by fifteen percent (15%).

For the 1974–75 and 1975–76 fiscal years only, notwithstanding subdivision (g) if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the foundation program, it shall be allowed to increase the revenue limit by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily attendance of the prior year and the estimated Public Law 81-874 income per unit of foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, areawide aid to be received for the budget year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and (2) the income from the prior year's taxes.

(k) From the amount computed pursuant to subdivision (j) there shall be subtracted the amount of money collected or to be collected as timber yield tax receipts pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(*l*) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners

exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

The amount determined pursuant to subdivision (k) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars ($100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district, exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (g) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below one dollar ($1) on the elementary level or eighty cents ($0.80) on the high school level or one dollar and eighty cents ($1.80) for a unified school district, except that when the district has levied upon it an areawide tax, such areawide tax rate levied shall be considered first as part of the minimum tax rate limit.

SEC. 3. Section 27423 of the Government Code is amended to read:

27423. (a) On or before May 1, 1977, the assessor of each county for the local roll and the State Board of Equalization for the board roll shall determine the annual assessed value attributable to timber, as defined in subdivision (a) of Section 431 of the Revenue and Taxation Code, of each tax rate area for the 1972–73 to 1974–75 fiscal years, inclusive. Such values shall be from the corrected, equalized assessment roll for each such year, including escape assessments subsequently added to the roll. Escape assessments determined subsequent to June 30, 1975, for any of the three fiscal years specified shall be reported to the county auditor who shall certify to the Controller a revision in the amounts of average annual property tax revenue attributable to timber for each affected taxing jurisdiction on or before July 15, 1977, and July 15 of each year thereafter.

(b) Using the assessed values determined pursuant to subdivision (a), on or before June 1, 1977, the auditor of each county shall determine the average annual property tax revenues attributable to timber of each taxing agency for the 1972–73 to 1974–75 fiscal years, inclusive; provided, that if a taxing agency was in existence for less than the entire period, the average for such agency shall be determined by dividing the appropriate amount of property tax revenues by either one year or two years, whichever figure corresponds most nearly to the duration of existence of the agency within said period. If 20 percent or more of the value of the secured roll of a community college district is attributable to timber in each

of fiscal years 1972–73 to 1974–75, inclusive, then the auditor shall use a rate which when multiplied by that district's average annual assessed value attributable to timber will produce an amount equivalent to the total amount of property taxes raised by that district in the 1976–77 fiscal year.

Each county auditor shall certify to the State Controller a list of this amount for each taxing agency in the county and the total of all such amounts for the county. The auditor shall keep such records for each tax rate area as necessary to make distribution of funds pursuant to Section 38906 of the Revenue and Taxation Code.

(c) The State Controller may require that all information pertinent to subdivisions (a) and (b) be retained and may inspect all calculations of the county assessor and county auditor. The Controller or the board may adjust and correct any calculation deemed to be inaccurate. The sum of each county's calculations as adopted by the Controller shall be known as that county's "annual yield tax revenue guarantee", and shall be certified to the county auditor on or before August 15, 1977.

(d) On or before July 15, 1977, and July 15 of each year thereafter, the auditor shall certify to the Controller the new or revised amount of property tax revenue attributable to timber for each taxing agency which in the preceding fiscal year (1) underwent "governmental reorganization," as described in Section 2295 of the Revenue and Taxation Code, or (2) underwent "functional consolidation," as described in Section 2305 of the Revenue and Taxation Code, or (3) gained approval from its voters to levy an additional property tax rate, effective with the next succeeding fiscal year.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency formed subsequent to June 30, 1975, shall be calculated as follows:

(1) The average annual assessed value attributable to timber shall be the sum of the values of the tax rate areas, as determined by the assessor or the board pursuant to subdivision (a), which correspond to the new agency's boundaries, as if that agency had actually existed during fiscal years 1972–73 to 1974–75, inclusive, and this sum shall be multiplied by

(2) A tax rate represented by 80 percent of the maximum tax rate the new taxing agency was authorized by the voters to levy in its first full year of operation.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency formed prior to June 30, 1975, which annexes territory subsequent to that date, shall have added to it the sum of the values of the tax rate areas, as determined by the assessor or the board pursuant to subdivision (a) which correspond to the territory which was annexed, multiplied by the average total tax rate levied during fiscal years 1972–73 to 1974–75, inclusive, by the taxing agency which annexed the territory.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency which subsequent

to June 30, 1975, has transferred to it by functional consolidation the responsibility of levying a property tax rate to pay the cost of a new service or program shall have added to it the sum of the average annual assessed value attributable to timber for that agency multiplied by the additional property tax rate to be incurred in the first year pursuant to the functional consolidation. For a taxing agency which subsequent to June 30, 1975, has transferred from it the responsibility of levying a property tax rate for a service or program, the average annual property tax revenue attributable to timber shall be reduced by the sum of the annual assessed value attributable to timber for that agency multiplied by the average tax rate levied by the taxing agency during fiscal years 1972–73 to 1974–75, inclusive, for the support of such service or program.

For purposes of this subdivision, when an additional property tax rate is approved by the voters of a taxing agency in the preceding fiscal year, such agency shall have its average annual property tax revenue attributable to timber revised in the same manner as for a functional consolidation in which responsibility for the funding of a new service or program is added; provided, that such revision will extend only for the same period of time as that authorized by the voters for the existence of the additional voted property tax rate.

(e) On or before August 15, 1977, and August 15 of each year thereafter, the Controller shall certify to each county auditor the revisions certified by the auditor pursuant to subdivision (a) or (d) in the average annual property tax revenue attributable to timber for one or more taxing agencies, to take effect in the current fiscal year. The Controller shall adjust and correct any calculation deemed to be inaccurate, prior to such certification. The amount added to or deducted from a county's previous annual yield tax revenue guarantee will be the property tax revenue attributable to timber, as certified to the Controller by the county auditor pursuant to subdivision (d). The revised annual yield tax revenue guarantee shall take effect for payments made to the county pursuant to subdivision (a) of Section 38905 and subdivision (a) of Section 38906 of the Revenue and Taxation Code in the current fiscal year, and shall remain in effect until subsequent revision under this subdivision.

(f) Upon receipt of the amount certified by the Controller pursuant to subdivision (c) or (e), the county auditor shall within 10 days certify to each taxing agency its share of this amount, and shall deliver to the county treasurer a schedule of these amounts for all taxing agencies in the county, to govern distribution of moneys pursuant to subdivision (a) of Section 38905 and subdivision (a) of Section 38906 of the Revenue and Taxation Code.

(g) For the purposes of this section, in the case of a change in the boundaries of a tax rate area, the assessor or the board shall determine the base year timber value by parcel in each tax rate area affected by the boundary change and the auditor shall apportion the property tax revenue attributable to timber according to this determination.

(h) For the purposes of this section "tax rate area" means a geographical area in which there is a unique combination of tax levies.

(i) For purposes of this section, a taxing agency is deemed to be in existence in any year in which the agency levies a property tax rate. Any taxing agency which was operational prior to June 30, 1975, but levied no property tax rate, may subsequent to that date establish an average annual property tax revenue attributable to timber pursuant to subdivision (d), as a governmental reorganization, in the year next succeeding the year in which it first levies a property tax rate.

SEC. 4. Section 51100 of the Government Code is amended to read:

51100. As used in this chapter, unless otherwise apparent from the context:

(a) "Board" means the board of supervisors of a county or city and county, whether general law or chartered, which establishes or proposes to establish a timberland preserve zone pursuant to this chapter.

(b) "Contiguous" means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the board or council, that they are manageable as a single forest unit.

(c) "Council" means the city council of a city, whether general law or chartered, which establishes or proposes to establish a timberland preserve zone pursuant to this chapter.

(d) "County" or "city" means the county or city having jurisdiction over the land.

(e) "Timber" means trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock.

(f) "Timberland" means privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

(g) "Timberland preserve zone" means an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber, or for growing and harvestng timber and compatible uses, as defined in subdivision (h).

(h) "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:

(1) Management for watershed;

(2) Management for fish and wildlife habitat or hunting and fishing;

(3) A use integrally related to the growing, harvesting and

processing of forest products, including but not limited to roads, log landings, and log storage areas;

(4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities; or

(5) Grazing.

(i) "Parcel" means that portion of an assessor's parcel that is timberland, as defined.

(j) "Anniversary date" means the anniversary of the date on which zoning is established pursuant to Section 51112 or 51113 takes effect.

(k) "Tax rate area" means a geographical area in which there is a unique combination of tax levies.

SEC. 5. Section 51110.1 of the Government Code is amended to read:

51110.1. (a) On or before September 1, 1977, the assessor shall assemble a list of all parcels, which, as of the lien date in 1976, appeared in the judgment of the assessor to constitute timberland, but which were not assessed for growing and harvesting timber as the highest and best use of the land.

(b) On or before September 1, 1977, the assessor shall notify by mail, which is certified and with return receipt requested, owners of parcels listed under subdivision (a) that their land has been included in such a list. This notice shall be substantially in the following form:

To: (name of taxpayer)

Pursuant to the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976, _____ County must provide for the zoning of land used for growing and harvesting timber as timberland preserve zone (TPZ).

A TPZ is a 10-year restriction on the use of land, and will replace the use of agricultural preserves (Williamson Act contracts) on timberland. Land use under a TPZ will be restricted to growing and harvesting timber, and to compatible uses approved by the county (or city). In return, taxation of timberland under a TPZ will be based only on such restrictions in use.

As part of this zoning procedure, the assessor has assembled a list (list "B") of all those parcels which appear to be land used for growing and harvesting timber, but which are not assessed for property tax purposes as this being the highest and best use of the land. The following parcels of your land have been included in this list "B":

(Legal description or assessor's parcel no.)

A public hearing will be held prior to March 1, 1978, for the consideration of zoning your parcel(s) as TPZ. You will be given at least 20 days' notice of such hearing.

Under the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act, all parcels included in this list "B" will be zoned as TPZ unless

the owner can demonstrate to the satisfaction of a majority of the full board (or council) that it would not be in the public interest for such parcel(s) to be zoned as TPZ. Parcels on list "B" not zoned as TPZ will receive an alternate zone, if no appropriate zone currently exists.

Detailed information on the TPZ zoning process and the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act in general may be obtained from your county assessors office.

(c) On or before October 15, 1977, the assessor shall submit to the board or council a list of all parcels, which as of the lien date in 1976, appear to constitute timberland, but which are not assessed for growing and harvesting timber as the highest and best use of the land. This list shall be known as "list B".

(d) On or before August 19, 1977, the State Board of Equalization shall submit to the county assessor, for inclusion in list B, those parcels on the board roll which are located in the county and which as of the lien date in 1976, appear to constitute timberland, but which were not assessed by the State Board of Equalization for growing and harvesting timber as the highest and best use of the land.

SEC. 5.5. Section 51110.3 is added to the Government Code, to read:

51110.3. In the event that a landowner does not receive notice pursuant to subdivision (b) of Section 51110.1, such owner may prior to January 1, 1978, petition directly to the board or council to have a parcel owned by such person included on list "B." Such owner must be able to demonstrate that on each such parcel a plan for forest management has been prepared, or approved as to content, by a registered professional forester prior to October 15, 1977. Such plan shall provide for the harvest of timber within a reasonable period of time, as determined by the preparer of the plan.

In the event that the board or council finds that the parcel does in fact have plans for forest management signed by a registered professional forester prior to October 15, 1977, the board or council shall include the parcel listed in the petition on list "B" without respect to acreage or size and shall consider these parcels under subdivision (c) of Section 51112.

SEC. 6. Section 51113 of the Government Code is amended to read:

51113. (a) (1) After November 1, 1977, an owner may petition the board or council to zone his land as timberland preserve. The board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland preserve all parcels submitted to it by petition pursuant to this section, which meet all of the criteria adopted pursuant to subdivision (c). Any owner who has so petitioned and whose land is not zoned as timberland preserve may petition the board or council for a rehearing on the zoning.

(2) This section shall not be construed as limiting the ability of the board or council to zone as timberland preserve any parcel submitted upon petition, which is timberland, defined pursuant to

subdivision (f) of Section 51100, and which is in compliance with the compatible use ordinance adopted by the board or council pursuant to Section 51111.

(b) The board or council, on or before March 1, 1977, by resolution, shall adopt procedures for initiating, filing and processing petitions for timberland preserve zoning and for rezoning. Such rules shall be applied uniformly throughout the county or city.

(c) On or before March 1, 1977, the board or council by ordinance shall adopt a list of criteria required to be met by parcels being considered for zoning as timberland preserve under this section. Such criteria shall not impose any requirements in addition to those listed in this subdivision and in subdivision (d) below. The following shall be included in such criteria:

(1) A map shall be prepared showing the legal description or the assessor's parcel number of the property desired to be zoned;

(2) A plan for forest management must be prepared or approved as to content, for the property by a registered professional forester. Such plan shall provide for the eventual harvest of timber within a reasonable period of time, as determined by the preparer of the plan;

(3) The parcel shall currently meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code and the forest practice rules adopted by the State Board of Forestry for the district in which the parcel is located, or the owner must sign an agreement with the board or council to meet such stocking standards and forest practice rules by the fifth anniversary of the signing of such agreement. If the parcel is subsequently zoned as timberland preserve under subdivision (a), then failure to meet such stocking standards and forest practice rules within this time period provides the board or council with a ground for rezoning of the parcel pursuant to Section 51121.

Upon the fifth anniversary of the signing of such an agreement, the board shall determine whether the parcel meets the timber stocking standards in effect on the date the agreement was signed. Notwithstanding the provisions of Article 4 of this chapter, if the parcel fails to meet the timber stocking standards, the board or council shall immediately rezone the parcel and specify a new zone for such parcel which is in conformance with the county general plan and whose primary use is other than timberland;

(4) The parcel shall be timberland, as defined in subdivision (f) of Section 51100; and

(5) The parcel shall be in compliance with the compatible use ordinance adopted by the board or council pursuant to Section 51111.

(d) The criteria required by subdivision (c) may also include any or all of the following:

(1) The land area concerned shall be in the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code, and shall be comprised of single or contiguous parcels of a certain number of acres, provided, that such number required may not exceed 160 acres or one-quarter section;

(2) The land shall be a certain site quality class or higher under Section 434 of the Revenue and Taxation Code; provided, that the parcel shall not be required to be of the two highest site quality classes.

SEC. 7. Section 51113.5 of the Government Code is amended to read:

51113.5. (a) After March 1, 1977, an owner with timberlands in a timberland preserve zone pursuant to Section 51112 or 51113 may petition the board or council to add to his timberland preserve lands that meet the criteria of subdivisions (f) and (g) of Section 51100 and that are contiguous to the timberland already zoned as timberland preserve. Section 51113 shall not apply to these lands.

(b) In the event of land exchanges with, or acquisitions from, a public agency in which the size of an owner's parcel or parcels zoned as timberland preserve pursuant to Section 51112 or 51113 is reduced, the timberland preserve shall not be removed from the parcel except pursuant to Section 51121 and except for a cause other than the smaller parcel size.

SEC. 8. Section 51119 of the Government Code is amended to read:

51119. Any action of the board or council undertaken to zone a parcel as timberland preserve pursuant to Section 51112 or 51113 of the Government Code shall be exempt from the requirements of Section 21151 of the Public Resources Code.

SEC. 9. Section 51119.5 of the Government Code is amended to read:

51119.5. Parcels zoned as timberland preserve under this chapter may not be divided into parcels containing less than 160 acres unless the original owner prepares a joint timber management plan prepared or approved as to content by a registered professional forester for the parcels to be created. The joint timber management plan shall provide for the management and harvesting of timber by the original and any subsequent owners, and shall be recorded with the county recorder as a deed restriction on all newly created parcels. Such deed restriction shall run with the land rather than with the owners, and shall remain in force for a period of not less than 10 years from the date division is approved by the board or council. Such division shall be approved only by a four-fifths vote of the full board or council, and only after recording of the deed restriction.

SEC. 10. Section 51121 of the Revenue and Taxation Code is amended to read:

51121. (a) If the board or council after public hearing and by a majority vote of the full body desires in any year not to extend the term of zoning, the county or city shall give written notice of its intent to rezone following procedures established pursuant to subdivision (b) of Section 51113. A proposed new zone shall be specified. Unless the written notice is given at least 90 days prior to the anniversary date of the initial zoning, the zoning term shall be deemed extended.

(b) Upon receipt by the owner of a notice of intent to rezone from

the county or city, the owner may make written protest of the notice and may appeal to the board or council within 30 days of notice from the county or city. The board or council may at any time prior to the anniversary date withdraw the notice of intent to rezone.

(c) The board or council shall hold a public hearing on the proposed change and by a majority vote of the full body may reaffirm its intent to change the zoning and specify a new zone.

(d) A new zone of a parcel shall be effective 10 years from the date of the reaffirmation vote pursuant to subdivision (c). Upon rezoning the parcel shall be valued pursuant to Section 426 of the Revenue and Taxation Code.

(e) The owner may petition to be reheard.

SEC. 11. Section 51132 of the Government Code is repealed.

SEC. 12. Section 51133 of the Government Code is amended to read:

51133. (a) If application for conversion is required pursuant to Section 4621 of the Public Resources Code, the board or council may tentatively approve the immediate rezoning after notice and hearing and only if by a four-fifths vote of the full body, and:

(1) A public hearing is held with notice of the hearing being given to all owners of lands situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.

(2) The board or council makes written findings that immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XIII of the Constitution and of this chapter.

(3) The board or council makes written findings that immediate rezoning is in the public interest.

(b) The board or council shall forward its tentative approval to the State Board of Forestry, together with the application for immediate rezoning, a summary of the public hearing and any other information required by the Board of Forestry. The Board of Forestry shall consider the tentative approval pursuant to Section 4621.2 of the Public Resources Code. Final approval to an immediate rezoning is given only if the Board of Forestry has approved conversion pursuant to Section 4621.2 of the Public Resources Code. Upon such final approval of conversion, the Board of Forestry shall notify the board or council of such approval, and the board or council shall remove the parcel from the timberland preserve zone and shall specify a new zone for such parcel.

SEC. 13. Section 51134 of the Government Code is amended to read:

51134. (a) If an application for conversion is not required pursuant to Section 4621 of the Public Resources Code, the board or council may approve the immediate rezoning request only if by a four-fifths vote of the full board or council it makes written findings that:

(1) The immediate rezoning would be in the public interest; and

(2) The immediate rezoning does not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space use of other land zoned as timberland preserve and

situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed;

(3) The soils, slopes, and watershed conditions will be suitable for the uses proposed by the applicant if the immediate rezoning is approved;

(4) The immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XIII of the Constitution and of this chapter.

(b) The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for granting a request for immediate rezoning pursuant to this section. Immediate rezoning shall be considered only if there is no proximate and suitable land which is not zoned timberland preserve for the alternate use not permitted within a timberland preserve zone.

(c) The uneconomic character of the existing use shall not be sufficient reason for the approval of immediate rezoning pursuant to this section. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put.

(d) Immediate rezoning action shall comply with all the applicable provisions of state law and local ordinances.

(e) The county or city may require the payment of a fee by the landowner for the cost of processing the application and recording the necessary documentation.

SEC. 14. Article 6 (commencing with Section 51150) is added to Chapter 6.7 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 6. Eminent Domain or Other Acquisition

51150. It is the policy of the state to avoid, whenever practicable, the location of any state or local public improvements and any improvements of public utilities, and the acquisition of land therefor, in timberland preserve zones.

51151. (a) As used in this section, Section 51152, and Section 51155, "public agency" means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within a timberland preserve zone (TPZ) may be required by a public agency or person for a public use, the public agency or person shall advise the Secretary of Resources and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the TPZ.

Within 30 days thereafter the Secretary of Resources and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the TPZ and such

comments shall be considered by the public agency or person. Failure of any public agency or person to comply with the requirements of this section shall invalidate any action by such agency or person to locate a public improvement within a TPZ. This subdivision does not apply to the erection, construction, alteration or maintenance of gas, electric, water, or communication transmission facilities within a TPZ if that TPZ was established after submission of the location of such facilities to the city or county for review or approval.

51152. (a) No public agency or person shall locate a public improvement within a timberland preserve zone (TPZ) based primarily on a consideration of the lower cost of acquiring a land in a TPZ.

(b) No public agency or person shall acquire timberland zoned as timberland preserve pursuant to this chapter for any public improvement if there is other land within or outside the TPZ on which it is reasonably feasible to locate the public improvement.

51153. Section 51152 shall not apply to:

(a) The location or construction of improvements where the board or council administering the TPZ approves or agrees to the location thereof.

(b) The acquisition of easements within a TPZ by the board or council administering the TPZ.

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) Public works required for fish and wildlife enhancement and preservation.

(e) Improvements for which the site or route has been specified by the Legislature in such a manner as to make it impossible to avoid the acquisition of land under contract.

(f) All state highways on routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.

(g) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code, except facilities under paragraph (6) of said subdivision (d).

(h) Land upon which condemnation proceedings have been commenced prior to July 1, 1977.

51154. Section 51152 shall be enforceable only by mandamus proceedings by the local governing body administering the timberland preserve zone or the Secretary of Resources. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51152 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against him.

51155. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land zoned as timberland preserve is filed or when such land is acquired in lieu of eminent

domain for a public agency or person or whenever there is any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government, such parcel shall be deemed immediately rezoned (pursuant to 51130) as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of such land, the timberland preserve zone (TPZ) shall be deemed never to have existed.

Upon the termination of such a proceeding, the parcel shall be immediately rezoned for all land actually taken or acquired.

When such an action to condemn or acquire less than all of a parcel of land subject to a TPZ is commenced, the parcel shall be deemed immediately rezoned as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to the TPZ will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the TPZ.

When such an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a TPZ is commenced, the parcel shall be deemed immediately rezoned as to such interest and for the purpose of establishing the value of such interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the TPZ will be adversely affected, in which case the value of that damage shall be computed without regard to the TPZ.

The land actually taken shall be removed from the TPZ. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the parcel may be immediately rezoned with respect to the remaining portion or interest upon petition of either party, and pursuant to the provisions of Article 4 (commencing with Section 51130) of this chapter.

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the TPZ is continued on the remaining portion or interest in the land may satisfy the requirements of subdivision (a) of Section 51132, subdivisions (a), (b) and (c) of Section 51134 and subdivisions (a), (b) and (c) of Section 4621.2 of the Public Resources Code.

SEC. 15. Section 51230 of the Government Code is amended to read:

51230. Beginning January 1, 1971, any county or city having a general plan, and until December 31, 1970, any county or city, by resolution, and after a public hearing may establish an agricultural preserve. Notice of the hearing shall be published pursuant to Section 6061 of this code, and shall include a legal description, or the assessors parcel number, of the land which is proposed to be included within the preserve. Such preserves shall be established for the purpose of defining the boundaries of those areas within which the city or county will be willing to enter into contracts pursuant to this

act. An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; and further provided, that in order to meet this requirement land zoned as timberland preserve pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

A county or city may establish agricultural perserves of less than 100 acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the county or city.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two years of the effective date of any contract on land within the preserve be restricted by zoning or other suitable means in such a way as not to be incompatible with the agricultural use of the land, the use of which is limited by contract in accordance with this chapter.

Failure on the part of the board or council to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

SEC. 16. Section 51246 of the Government Code is amended to read:

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

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

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

(d) Notwithstanding any other provision of law, commencing with the lien date for the 1977–78 fiscal year all timberland within an existing contract which has been nonrenewed as mandated by this section shall be valued according to Section 423.5 of the Revenue and Taxation Code, succeeding to and including the lien date for the 1981–82 fiscal year. Commencing with the lien date for the 1982–83 fiscal year and succeeding until the end of the contract, such timberland shall be valued according to Section 426 of the Revenue and Taxation Code. Commencing with the lien date next succeeding the termination date of the contract, and on each lien date thereafter, such timberland shall be valued according to Section

434.5 of the Revenue and Taxation Code.

SEC. 17. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1977,and March 1 of each year thereafter, up to and including March 1, 1979, timberland shall be valued per acre according to the following schedule:

Redwood Region		Pine-Mixed Conifer Region	
Site I	$80	Site I	$60
Site II	$60	Site II	$50
Site III	$50	Site III	$40
Site IV	$30	Site IV	$30
Site V (and inoperable)	$20	Site V (and inoperable)	$20

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, such timberland parcel or portion thereof shall be valued as if it is site V.

The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 Article 13 of the Constitution.

(b) On or before January 1, 1980, and every third year thereafter, the board after consultation with the timber advisory committee and in compliance with procedures set forth for adoption of rules under the Administration Procedure Act, shall adopt schedules reestablishing the value of each grade of timberland graded pursuant to Section 434 as if it were bare of forest growth, and recognizing that the restricted use of the land is for growing and harvesting timber and compatible uses. The board shall certify such values to county assessors by January 10 of each year. Such schedule shall remain in effect until subsequent revision pursuant to the provisions of this subdivision.

(c) Commencing January 1, 1977, the board shall collect such data as may be necessary to accurately value timberland pursuant to subdivision (b).

(d) In promulgating regulations pursuant to subdivision (b) the board shall determine the value of such timberland subject to the following:

(1) The board shall base the value of such land upon the existence of a 10-year enforceable restriction using commonly accepted systems of valuation;

(2) When the board is valuing timberland property within a timberland preserve zone by comparison with sales of other timberland properties in order to be considered comparable, the properties sold shall be at least 160 acres in size and shall be similarly restricted under a timberland preserve zone. Size and any discount for size and amenities shall not be factors in determining the value of land zoned as timberland preserve which is valued by a method

employing the use of comparable sales.

(e) For purposes of this section the value of each acre of timberland within each site class, within a timberland preserve zone, shall be presumed no greater than the value derived pursuant to subdivision (f).

(f) The board shall:

(1) Prepare, or cause to be prepared, timberland site capability tables which shall prescribe by site classification the potential annual yield of wood by species or mixture of species per acre.

(2) Multiply the potential annual yield by 10 percent.

(3) Multiply the result of paragraph (2) by an immediate harvest value, averaged for the previous 20 quarters, that is appropriate for the geographical area wherein such timberland values shall be applied.

(4) Divide the result of paragraph (3) by a capitalization rate of 10 percent expressed as a decimal.

Pursuant to (2) of this subsection, the Legislature declares that 10 percent is the average percent of income from potential annual yield of wood that can be attributed to timberland as a productive component contributing to such income and the Legislature finds that it is in the public interest that values derived from analysis of sales of timberland restricted under timberland preserve zones shall not exceed this percentage.

(g) For the purposes of this section, the value of each acre of timberland within a timberland preserve zone shall be presumed to be no less than twenty dollars ($20) per acre.

(h) For the purposes of this section, the term "value" (and its derivatives) means "full value," as defined in Section 110.5.

SEC. 18. Section 435 of the Revenue and Taxation Code is amended to read:

435. (a) In preparing the assessment roll for the 1977–78 fiscal year and each fiscal year thereafter, the assessor shall use as the value of each parcel of timberland the appropriate grade value certified to him by the board, pursuant to Section 434.5 plus the value, if any, attributable to existing, compatible, nonexclusive uses of the land. Assessments of values attributable to compatible uses determined in accordance with this part are subject to the appeals procedure established by law for other assessments.

(b) Nothing in this article shall prevent the assessor in valuing timberland from taking into consideration the existence of any mines, minerals and quarries in or upon the land being valued, including but not limited to geothermal resources and oil, gas, and other hydrocarbon substances.

(c) The provisions of this article shall not apply to any structure on the land being valued or to an area of reasonable size used as a site for approved compatible uses.

(d) The assessor shall apply the ratio prescribed by Section 401 to the sum of the values derived for each parcel pursuant to this section, to obtain the assessed value of each parcel.

SEC. 18.5. Section 437 of the Revenue and Taxation Code is amended to read:

437. Whenever the debt limit of a taxing agency is based wholly or in part on the assessed value of the agency, there shall be added to such assessed value the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and distributed pursuant to Section 38905 of the Revenue and Taxation Code.

The assessed valuation equivalents for revenue amounts certified pursuant to Section 27423 of the Government Code and distributed pursuant to Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the secured tax rate for the prior year.

SEC. 19. Section 17299.1 of the Revenue and Taxation Code is amended to read:

17299.1. In computing taxable income no deduction shall be allowed for (a) abandonment fees paid under Section 51061 or 51093 of the Government Code or (b) tax recoupment fees paid under Section 51142 of the Government Code.

SEC. 20. Section 18052.2 of the Revenue and Taxation Code is amended to read:

18052.2. Notwithstanding the provisions of Section 18052, no adjustment shall be made for (a) abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code or (b) tax recoupment fees paid under Section 51142 of the Government Code.

SEC. 21. Section 24441 of the Revenue and Taxation Code is amended to read:

24441. In computing net income no deduction shall be allowed for (a) abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code or (b) tax recoupment fees paid under Section 51142 of the Government Code.

SEC. 22. Section 24916.2 of the Revenue and Taxation Code is amended to read:

24916.2. Notwithstanding the provisions of Section 24916 no adjustment shall be made for (a) abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code or (b) tax recoupment fees paid under Section 51142 of the Government Code.

SEC. 23. Section 38115 of the Revenue and Taxation Code is amended to read:

38115. A timber yield tax is hereby imposed on every timber owner who harvests his timber or causes it to be harvested on or after April 1, 1977, and on every timber owner of felled or downed timber who acquires title to such felled or downed timber in this state from an exempt person or agency described in Section 38104 on or after that date, at the rate of 6 percent of the total immediate harvest value of that timber or at such other rate as may be fixed pursuant to Chapter

3 (commencing with Section 38202) of this part. The immediate harvest value shall be determined as of the scaling date.

SEC. 23.2. Section 38202 of the Revenue and Taxation Code is amended to read:

38202. On or before December 31, 1978, and December 31 of each subsequent year, after public hearings, the board shall adjust the yield tax rate to the nearest one-tenth of 1 percent in the same proportion that the average rate of general property taxation in the rate adjustment counties in the current tax year differs from the average rate of general property taxation in the rate adjustment counties in the preceding tax year. The board shall compute the average rate of general property taxation in the rate adjustment counties by (a) adding the county, city, school district, and other general taxes, but not the special taxes on intangibles, aircraft, baled cotton or any other property, which is subject to a uniform statewide tax rate, nor special assessments, and (b) dividing the amount obtained by the total assessed valuation in the rate adjustment counties, exclusive of the homeowners' and business inventory exemptions, as shown by the county tax rolls for the same year.

"Total assessed valuation," as used in this section, does not include the assessment of property which is subject to a uniform statewide tax rate.

"Special assessment" as used in this section, means any amount levied solely against land or land and improvements.

SEC. 23.4. Section 38204 of the Revenue and Taxation Code is amended to read:

38204. (a) On or before December 31, 1976, the board after consultation with the Timber Advisory Committee and after public hearings held pursuant to the Administrative Procedure Act, shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as timber value areas for the preparation and application of immediate harvest values. The board may designate areas for timber standing on lands owned by local agencies and on timberland as defined in Section 51100 of the Government Code and designate separate areas for timber standing on national forest lands owned by the United States government. On or before March 1, 1977, for timber harvested between April 1 and December 31, 1977 and on or before December 31, 1977, and on June 30 and December 31 of each year thereafter for timber harvested during the succeeding two calendar quarters, the board, after consultation with the Timber Advisory Committee, shall estimate the immediate harvest values of each species or subclassification of timber within such areas as of the initial date of the period. Such values shall be determined under rules adopted pursuant to the Administrative Procedure Act from the best evidence available, including (1) gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, or (2) gross proceeds from sales of logs, or of finished products, adjusted to reflect only the portion of such proceeds

attributable to value on the stump immediately prior to harvest, or a combination of (1) and (2), and shall be determined in a manner which makes reasonable allowance for differences in age, size, quality, cost of removal, accessibility to point of conversion, market conditions and other relevant factors.

(b) The board, either on its own motion or in response to application from a timber owner, may modify the immediate harvest values to reflect material changes in timber values that result from fire, blowdown, ice storm, flood, disease, insect damage or other cause, for any area or part thereof in which damaged timber is located. The board shall specify any additional accounting or other requirements to be complied with in reporting and paying the tax on such timber.

SEC. 24. Section 38205 of the Revenue and Taxation Code is amended to read:

38205. The Legislative Analyst shall prepare a report prior to March 1, 1980, which reviews the yield tax rate and revenue distribution mechanisms, and land valuation procedures, for submission to the Legislature and to the Revenue and Taxation Committees in each house. After 1980, an updated report shall be submitted every four years on or before March 1.

The Legislative Analyst shall recommend necessary modifications in the yield tax rate, revenue distribution mechanisms and timberland valuation system, so that timber bears an equitable and proportionate tax share in conformance with the provisions of this chapter, and so that local agencies may be assured of a continual and stable flow of their equitable share of yield tax proceeds. The Legislative Analyst may request from the various counties and agencies of the state whatever information is necessary to facilitate completion of these reports.

SEC. 25. Section 38303 of the Revenue and Taxation Code is amended to read:

38303. On or before December 31, 1978, and each December 31 thereafter to and including December 31, 1981, the board, after public hearings, shall establish a timber reserve fund tax rate for the 12-month period beginning on the next following January 1. In establishing this rate the board shall estimate the amount of timber which will be harvested during the year for which the rate is to be established and the immediate harvest value of that timber and shall establish a rate which it estimates will produce an amount equal to the amount certified by the Controller pursuant to Section 38907. The board shall certify the rate established under this section to the Director of Finance and the Legislature.

SEC. 26. Section 38351 of the Revenue and Taxation Code is amended to read:

38351. Every person who owns timber subject to a timber harvest plan, every person who is required to file a notice of timber operations with the State Forester, and every person who is the first person who acquires either legal title or beneficial title to downed

timber or timber after it has been felled from land owned by a federal agency or any other person or agency entity exempt from state taxation under the Constitution or laws of the United States or under the Constitution or laws of the State of California shall register with the board giving such information as the board may require.

SEC. 27. Section 38902 of the Revenue and Taxation Code is amended to read:

38902. All taxes paid or collected pursuant to Section 38301 shall be deposited in the Timber Tax Reserve Fund, which is hereby created. The money in the fund is hereby appropriated to pay refunds authorized by this part of taxes imposed pursuant to Section 38301 and to the Controller to allocate as provided in this chapter.

SEC. 28. Section 38904 of the Revenue and Taxation Code is amended to read:

38904. The money in the Timber Tax Fund is appropriated as follows:

(a) To reimburse the General Fund for funds advanced for costs incurred by the board in administration of this part as follows:

(1) Five hundred twenty-nine thousand eight hundred fourteen dollars ($529,814) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the normal budget process.

(b) To reimburse the General Fund for funds advanced for costs incurred by the State Forester in administration of Section 4582.8 of the Public Resources Code as follows:

(1) Thirteen thousand five hundred dollars ($13,500) for fiscal year 1975–76 and 1976–77.

(2) Amounts identified and approved if subsequent fiscal years as approved in the normal budget process.

(c) To the Controller to allocate pursuant to Section 38905.

(d) To pay refunds authorized by this part of taxes imposed pursuant to Section 38115 and interest, penalties, and other amounts paid or collected pursuant to this part and deposited in the Timber Tax Fund.

SEC. 28.5. Section 38905 of the Revenue and Taxation Code is amended to read:

38905. (a) The Controller shall transmit to the county treasurer 100 percent of the annual yield tax revenue guarantee certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code for the 1977–78 fiscal year and each fiscal year thereafter, less the county's proportional share of the annual costs incurred under subdivisions (a) and (b) of Section 38904. Such proportional share shall be the ratio of each county's share, determined pursuant to subdivision (c) or (e) of Section 27423 of the Government Code, to the total of such shares in the state. These amounts shall be distributed on the following dates of the fiscal year for which they are made: 50 percent on November 30, and 50 percent on May 31. The county auditor shall allocate moneys received under this subdivision among taxing agencies in the proportions accorded

the respective agencies in the county's annual yield tax revenue guarantee as certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code.

(b) The Controller shall transmit to the Timber Tax Reserve Fund the balance of any money in excess of two hundred fifty thousand dollars ($250,000) in the Timber Tax Fund on June 1, 1978, and on June 1 of each year thereafter following allocation pursuant to subdivision (a); provided, that if the balance in the Timber Tax Reserve Fund is eight million dollars ($8,000,000) or more, the amount above seven million dollars ($7,000,000) shall be distributed by the Controller as provided in subdivision (a) of Section 38906, and county auditors shall then distribute receipts as provided in subdivision (b) of Section 38906.

(c) In the event that the balance in the Timber Tax Fund is insufficient to make an allocation provided for in this section, the Controller shall transfer sufficient money to the fund from the Timber Tax Reserve Fund to make the allocation. In the event that there are insufficient funds in the Timber Tax Reserve Fund required to make the allocations provided in this section, each county's share shall be reduced pro rata, but any such reduction shall be restored in subsequent allocations.

SEC. 29. Section 38906 of the Revenue and Taxation Code is amended to read:

38906. (a) On June 1, 1978, and on June 1 of each year thereafter, the Controller shall transmit the balance of any money in the Timber Tax Reserve Fund in accordance with subdivision (b) of Section 38905 to the treasurer of each county in the proportion that the total taxes collected under this part in all previous quarters in that county bears to the total taxes collected in the state for the same period; provided that for all quarters beginning on or after October 1, 1982, such computation shall be made with respect to the previous 20 quarters. The transmittal to a county shall be accompanied by a tabulation showing the tax collections arising in each of the county's tax code areas, to govern distribution of moneys.

(b) Upon receipt of funds pursuant to subdivision (a), the county auditor shall within 10 days distribute the funds among the agencies levying taxes or ad valorem special assessments in each tax code area, in the proportion that each taxing agency's harvest factor calculated pursuant to subdivision (c) bears to the sum of the harvest factors for all taxing agencies in the county.

(c) On or before June 1, 1978, and each June 1, thereafter, the county auditor shall compute, and shall provide such to the State Controller, a schedule setting forth for each taxing agency or portion thereof lying within such county:

(1) The average of the aggregate value of all timber harvested within such district in each of the immediately preceding four quarters for 1978, eight quarters for 1979, and 12 quarters for 1980, and to a maximum of 20 quarters thereafter, as determined from the yield tax returns filed with the board;

(2) The aggregate dollar rate calculated pursuant to Section 2151 and actually utilized the immediately preceding October in extending real property taxes upon the tax rolls;

(3) A "harvest factor" which is the product of such quarterly average and such dollar rate; and

(4) The proportion that each taxing agency's harvest factor bears to the sum of the harvest factors for all taxing agencies in the county.

(d) In determining the harvest factor in subdivision (c), the auditor shall adjust for boundary changes as of the last lien date, and may require from the county information on boundary changes necessary to make such alterations. In establishing the harvest factor for a new district, an auditor shall assume that yield taxes have been collected within boundaries of the new district for the previous 12 quarters.

SEC. 30. Section 38907 of the Revenue and Taxation Code is amended to read:

38907. On or before December 2, 1978, and each December 1 each year thereafter to and including December 1, 1981, the Controller shall certify to the State Board of Equalization the amount necessary to restore any deficient allocations as provided for in subdivision (c) of Section 38905, plus the amount needed to bring the current balance of the Timber Tax Reserve Fund up to five million dollars ($5,000,000).

SEC. 31. Section 17.5 is added to Chapter 176 of the Statutes of 1976, to read:

Sec. 17.5. This act shall be known and may be cited as the "Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976."

SEC. 32. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

SEC. 33. The provisions of this act shall apply to all activities undertaken pursuant to Chapter 176 of Statutes of 1976.

SEC. 34. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

At its 1975–76 Regular Session, the Legislature enacted Assembly Bill No. 1258 as Chapter 176 of the Statutes of 1976 to provide for an entirely new system for the taxation of timber and timberlands. This bill would correct erroneous cross-reference and other technical discrepancies in that law in order to enable the new tax system to operate efficiently. Since Chapter 176 became operative on April 1, 1977, and various duties of local government officials commence in September, 1977, it is necessary that this act take effect immediately.

CHAPTER 854

An act to amend Section 21080 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic Games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic Games.

(c) In the event that a public agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such public agency shall adopt a negative declaration to that effect.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the City of Los Angeles to submit a timely bid for hosting the 1984 Olympic Games, it is necessary that this act go into immediate effect.

CHAPTER 855

An act to amend Section 30261 of the Public Resources Code, and to add Chapter 10 (commencing with Section 5550) to Division 2 of the Public Utilities Code, relating to a liquefied natural gas terminal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 30261 of the Public Resources Code is amended to read:

30261. (a) Multicompany use of existing and new tanker facilities shall be encouraged to the maximum extent feasible and legally permissible, except where to do so would result in increased tanker operations and associated onshore development incompatible with the land use and environmental goals for the area. New tanker terminals outside of existing terminal areas shall be situated as to avoid risk to environmentally sensitive areas and shall use a monobuoy system, unless an alternative type of system can be shown to be environmentally preferable for a specific site. Tanker facilities shall be designed to (1) minimize the total volume of oil spilled, (2) minimize the risk of collision from movement of other vessels, (3) have ready access to the most effective feasible containment and recovery equipment for oilspills, and (4) have onshore deballasting facilities to receive any fouled ballast water from tankers where operationally or legally required.

(b) Because of the unique problems involved in the importation, transportation, and handling of liquefied natural gas, the location of terminal facilities therefor shall be determined solely and exclusively as provided in Chapter 10 (commencing with Section 5550) of Division 2 of the Public Utilities Code and the provisions of this division shall not apply unless expressly provided in such Chapter 10.

SEC. 2. Chapter 10 (commencing with Section 5550) is added to Division 2 of the Public Utilities Code, to read:

CHAPTER 10. LOCATING, CONSTRUCTING, AND OPERATING A LIQUEFIED NATURAL GAS TERMINAL

Article 1. Findings and Short Title

5550. This chapter shall be known and may be cited as the Liquefied Natural Gas Terminal Act of 1977.

5551. The Legislature finds as follows:

(a) That an adequate supply of natural gas is essential to the economy of California and to the health and welfare of its residents.

(b) That the importation of liquefied natural gas from south Alaska and Indonesia into California may be a significant means of assuring that adequate and reliable supplies of natural gas are obtained in sufficient quantities to meet the state's needs and to prevent natural gas shortages which would disrupt the state's economy, increase air pollution, and impose personal and financial hardships on all of the state's residents.

(c) That an initial liquefied natural gas terminal may currently be needed in order to permit the importation of sufficient natural gas to prevent shortages which have been predicted to occur in the early 1980's.

(d) That, in order to expedite the siting, construction, and operation of such liquefied natural gas terminal so that serious shortages of natural gas do not occur, it is necessary to vest exclusively in one state agency the authority to issue a single permit authorizing the location, construction, and operation of such terminal, and to establish specific time limits for a decision on applications for such permit.

5552. The Legislature further finds and declares that current uncertainties about the safety of liquefied natural gas require that the single terminal authorized by this chapter be located at a site remote from human population in order to provide the maximum possible protection to the public against the possibility of accident. The Legislature declares that the finding stated in this section applies only to the terminal authorized by this chapter. Such finding is not intended to be, and shall not be construed as, applicable to any additional terminals which may be authorized at a future date.

Article 2. Definitions

5555. Unless the contrary is stated or clearly appears from the context, the definitions set forth in this article shall govern the construction of this chapter.

5556. "Coastal commission" means the California Coastal Commission, as specified and defined in subdivision (a) of Section 30105 of the Public Resources Code.

5557. "Commission" means the Public Utilities Commission.

5558. "Energy commission" means the State Energy Resources Conservation and Development Commission established pursuant to the provisions of Division 15 (commencing with Section 25000) of the Public Resources Code.

5559. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account: (a) economic, environmental, social, technological, safety, and reliability factors, (b) gas supply contracts, (c) gas supply and demand forecasts, (d) federal regulatory requirements, and (e) alternative sources of natural gas.

5560. "High priority requirements for natural gas" means those requirements that, when satisfied, will maintain employment,

essential residential consumption levels, and air quality.

5561. "Liquefied natural gas" or "LNG" means natural gas cooled to minus 259 degrees fahrenheit so that it forms a liquid at approximately atmospheric pressure.

5562. "Liquefied natural gas terminal," "terminal," or "LNG terminal," means facilities designed to receive liquefied natural gas from ocean-going vessels, including those facilities required for storage and regasification of the liquefied natural gas and those pipelines and facilities necessary for the transmission of the regasified natural gas to the point of interconnection with existing pipelines.

5563. "Local government" means any city, county, or city and county, whether chartered or general law, and any district.

5564. "Offshore" means any location seaward of the mean high tide line of mainland California, including all islands.

5565. "Onshore" means any location on the mainland of California landward of the mean high tide line.

5566. "Permit" means the single authorization provided pursuant to this chapter to construct and operate an LNG terminal in this state.

5567. "Person" means any individual, organization, partnership, or other business association or corporation, and the federal government, the state government, and any local government, and any agency or instrumentality thereof.

5568. "Population," as used in the term "population density," means permanent residents who have resided for not less than six months in a permanent dwelling, and persons who work in an area on a permanent, year round basis, exclusive of persons who would be employed at a terminal or at associated industries that make substantial use of byproducts of LNG processing, such as industries that utilize waste cold.

5569. "State government" means the State of California or any agency, board, commission, or instrumentality thereof.

5570. "District" means an agency of the state, other than a city or county, formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries. "District" includes, but is not limited to, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area.

Article 3. General Provisions

5580. In order to implement the policy stated in subdivision (c) of Section 5551, on or before July 31, 1978, the commission shall issue a decision on an application for a permit to construct and operate an LNG terminal. After the effective date of this chapter, no person shall construct and operate an LNG terminal without obtaining a permit pursuant to the provisions of this chapter.

5581. In order to implement the policy stated in subdivision (d)

of Section 5551, the issuance of a permit by the commission shall be in lieu of any other permit, license, certificate, or other entitlement for use required by any agency of state or local government for the construction or operation of an LNG terminal, to the extent permitted by federal statute or regulation or any federal-state agreement relating to water discharge permits. Also, to the extent permitted by federal statute or regulation, the permit shall also be in lieu of any other permit, license, certificate, or other entitlement for use issued by any agency, department, or instrumentality of the federal government.

5582. (a) In order to implement the policy stated in Section 5552, the following criteria shall apply to the terminal to be authorized by this chapter:

(1) Population density shall be not greater than an average of 10 persons per square mile for a distance of one mile outside the perimeter of the site on which the offloading, regasification, and storage facilities for LNG will be located.

(2) Population density shall be not greater than an average of 60 persons per square mile for a distance of four miles outside the perimeter of the site on which the offloading, regasification, and storage facilities for LNG will be located.

(3) The terminal shall be located so that no marine vessel transporting LNG would be required or permitted in the normal course of marine operations, according to the plan of operations filed by the applicant pursuant to subdivision (b) of Section 5601, to pass closer to areas of population density than the distances specified in paragraphs (1) and (2).

(b) For the sole purpose of selecting the site for the terminal, "population density" shall be established as of the effective date of this chapter. However, the commission may issue a permit to construct and operate a terminal on any site it determines will meet, through the imposition of reasonable terms and conditions or the exercise of the power of eminent domain, the population density requirements of this section at the time the operation of the terminal is commenced.

5583. (a) After the commission has issued a permit for a terminal pursuant to the provisions of this chapter, neither the state government nor any local government shall undertake any development or grant any permit for development which would not conform to the distance and density requirements of Section 5582 or which would otherwise be incompatible with the development or operation of the terminal. The requirements of this section are hereby found necessary in order to protect the public health, safety, and welfare.

As used in this subdivision "development" shall have the same meaning as in Section 30106 of the Public Resources Code.

(b) In order to implement the provisions of subdivision (a) in an orderly and effective manner and to ensure proper planning for uses compatible with the development and operation of the terminal,

local governments and the coastal commission shall undertake appropriate planning through the appropriate local coastal program required pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of the Public Resources Code.

5584. The storage and regasification facilities of the terminal authorized by this chapter shall be located onshore. The trestle and related facilities of such terminal may be located onshore and offshore as necessary.

5585. The permit authorized by this chapter shall apply only to a terminal to receive, store, and regasify liquefied natural gas derived from gas produced in Indonesia and south Alaska. Such terminal's average daily input capacity shall not exceed the gaseous equivalent of 1.3 billion cubic feet, and its LNG storage capacity shall not exceed 1.65 million barrels.

5586. The commission shall charge each person who applies for a permit pursuant to this chapter a fee which will be sufficient to reimburse the commission for the costs incurred in processing the application and rendering a decision as required by this chapter. Such costs shall include costs incurred by the coastal commission in complying with the requirements of Article 5 (commencing with Section 5610) but not costs incurred in complying with the requirements of Article 7 (commencing with Section 5650). Such costs shall also include costs incurred by the commission and the energy commission in complying with the provisions of Section 5637 but not those costs incurred in complying with Section 5587.

5587. (a) In order to assist the commission in carrying out the provisions of this chapter, it shall, on receipt of an application to construct and operate a terminal, request of the energy commission, and such commission shall provide, a study of natural gas supplies and demand in this state. Such study shall include a forecast of the approximate time when significant curtailment of high priority requirements for natural gas is likely to occur without the importation of liquefied natural gas.

(b) In making the study required by subdivision (a), the energy commission shall take into account all supplemental sources of natural gas and natural gas alternatives which can reasonably be expected to be available to meet the state's demands for natural gas, including, but not limited to, conservation programs, increased production from natural gas wells in this state, and the availability of natural gas from federally owned or federally regulated supplies.

(c) The study required by this section shall be submitted to the commission not later than March 15, 1978.

(d) The study required by this section shall be part of the commission's record regarding gas supply and demand for purposes of any decision on the permit authorized by this chapter.

5588. The provisions of Chapter 9 (commencing with Section 1701) of Part 1 of Division 1, relating to hearings held by the commission and to judicial review of decisions rendered by the commission, shall apply to all hearings by the commission held

pursuant to this chapter and to any decision made by the commission pursuant to this chapter to issue a permit for the construction and operation of a terminal.

5589. In no event shall any person filing any application for, or receiving, a permit pursuant to the provisions of this chapter be deemed a public utility or a gas corporation pursuant to the provisions of this code solely because of the application for, or receipt of, a permit pursuant to this chapter.

5590. The construction and operation of an LNG terminal, related facilities, and access roads and the creation and maintenance of an area of low population density surrounding the terminal are public uses and purposes for which the power of eminent domain may be exercised pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

A person who has an application for a permit to construct and operate an LNG terminal on file with the commission or a person who holds such a permit shall have the power of eminent domain and the right to acquire property for all of the following public purposes with respect to both its proposed terminal site and, if different, the permitted terminal site:

(a) The construction and operation of the terminal, access roads, lines, and appurtenant or related facilities necessary for the construction, operation, or maintenance of the terminal.

(b) Restricting population density and structures in the area surrounding the terminal site in order to provide and maintain conformance with the population density requirements of Section 5582.

(c) Making reasonable reductions in population density and structures in the area surrounding the terminal site in order to provide and maintain conformance with the population density requirements of Section 5582.

5591. Because of the necessity for an expeditious decision regarding a terminal, and for the purposes specified in Article 7 (commencing with Section 5650) of this chapter, the requirements of Sections 11042, 13070, 14615, 14780, and 14782 of the Government Code shall not apply to the activities of the commission and the coastal commission that are required pursuant to this chapter. Further, the commission and the coastal commission may, for the purposes of this chapter, make temporary appointments of personnel for a maximum period of service of 18 months, without regard for the provisions of Chapter 6 (commencing with Section 19050) of Part 2 of Division 5 of Title 2 of the Government Code.

5592. All state agencies shall cooperate with and, at the request of the commission or the coastal commission, shall execute interagency agreements to assist the commission or the coastal commission in evaluating any site identified pursuant to Article 5 (commencing with Section 5610). Costs incurred by any state agency as the result of such an interagency agreement shall be paid by the commission or the coastal commission and shall be reimbursed from

fees collected pursuant to the provisions of Section 5586.

The reimbursement requirements of this section shall not apply to the study to be performed by the energy commission pursuant to the provisions of Section 5587.

5593. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

5594. All dates specified in this chapter for the submission of studies, reports, and decisions are mandatory.

5595. (a) Notwithstanding the provisions of Section 5581, if it is necessary to obtain a lease, easement, or other interest in real property from the State Lands Commission in order to construct and operate a terminal, a lease shall be obtained from the State Lands Commission for such property interest. The Legislature hereby finds and declares that leasing of state lands for the purpose of constructing and operating a terminal is in the public interest; and that if such lease is required to construct and operate a terminal, the State Lands Commission shall issue such lease.

(b) Any lease issued by the State Lands Commission pursuant to subdivision (a) shall be a standard general form lease containing only standard convenants. The State Lands Commission shall establish the annual rent for the leased lands pursuant to the authority of Section 6503 of the Public Resources Code.

(c) Upon receipt of an application for a terminal pursuant to this chapter, the commission shall immediately forward a copy thereof to the State Lands Commission.

(d) In issuing any lease pursuant to this section or taking any action related thereto, the State Lands Commission shall be exempt from the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

Article 4. Application for Permit

5600. Any application for the permit authorized by this chapter shall be filed with the commission not later than 30 days after the effective date of this chapter.

5601. The permit application shall contain the following information:

(a) Information, including maps and pictorial and written descriptions of present and proposed development for the site and relevant geological, archeological, aesthetic, ecological, seismic, marine transport, and population data. The maps shall designate the location of the perimeter of the LNG offloading, regasification, and storage site from which the population density criteria specified in Section 5582 shall be measured.

(b) A detailed description of the proposed engineering design features, proposed methods of construction, and proposed operating

procedures for the terminal and a proposed plan for marine operations, including shipping routes and control procedures.

(c) An analysis of accident possibilities, consequences and risks for the terminal.

(d) Information regarding safety and public protection features, including fire protection measures, marine navigational systems, emergency systems for shutting down the terminal, and other contingency plans for accidents.

(e) Information regarding the cost of the terminal, fuel consumption in operating terminal equipment, service life of the terminal, and capacity of the terminal.

(f) Information regarding the source of liquefied natural gas, including the contractual terms for the delivery of such gas supplies.

(g) A description of any proposed or existing natural gas transmission lines related to the proposed terminal, including a map, in suitable scale, of the routing that shows details of the right-of-way in the vicinity of populated or developed areas, parks, and recreational areas; the justification for the route; and a preliminary statement of the effect of any proposed natural gas transmission line on the environment.

(h) A description of contingency plans for equivalent volumes of natural gas in the event of both short- and long-term interruptions of the LNG supply system for the proposed terminal.

(i) A description of the proposed method of financing the terminal and analysis of the rate impact thereof on natural gas consumers in this state.

(j) The applicant's legal opinion regarding the rights this state has, or can assert, under federal law (1) that will assure the allocation of adequate supplies of natural gas to consumers in this state from sources other than the terminal to be permitted pursuant to this chapter and (2) that will assure consumers in this state full and fair compensation for any losses of supplies of natural gas costing less than gas converted from LNG that may result from federal allocation policies.

(k) Any other information which the applicant deems necessary or desirable to support its application and better inform the commission and the public.

5602. At any time after the filing of the application, the commission may require the applicant to furnish such additional, relevant information as may be necessary to carry out the purposes of this chapter.

Article 5. Coastal Commission

5610. On receipt of an application for a permit to construct and operate a terminal, the commission shall immediately transmit a copy thereof to the coastal commission for review and evaluation.

5611. In order that the coastal commission carry out its responsibilities as required by this chapter in the most expeditious

manner, on the effective date of this chapter, such commission shall commence a study to identify and evaluate potential onshore sites for an LNG terminal. The study shall include an evaluation of only the following sites: (1) any site proposed in an application submitted pursuant to this chapter for a permit to construct and operate an LNG terminal and (2) any onshore sites proposed by any person for inclusion as an appropriate alternate site in the environmental impact report prepared by the commission pursuant to the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. However, the final report required by Section 5612 shall include an evaluation and ranking of the proposed site applied for and, in addition, shall include an evaluation and ranking of only those alternative sites that the coastal commission determines to include in such report as a result of applying the policies of this chapter.

5612. (a) Not later than May 31, 1978, the coastal commission shall complete and transmit to the commission its final report evaluating and ranking the sites pursuant to Section 5611. Such report shall be deemed a recommendation to the commission. Such report shall include a transcript of hearings held by the coastal commission and a copy of all relevant files, including exhibits.

(b) Not later than February 1, 1978, the coastal commission shall submit to the commission a report containing a preliminary ranking and evaluation of the terminal sites being studied pursuant to Section 5611, if a preliminary ranking can be made on such date. Such preliminary report may constitute a staff report and need not be preceded by public hearing. It is the intent of the Legislature in requiring this preliminary report to assure notice to the commission of sites being considered by the coastal commission and that such report not be binding on the coastal commission in any respect for purposes of the final report required by subdivision (a).

5613. (a) In ranking potential LNG terminal sites as required by Sections 5611 and 5612, the coastal commission shall base its ranking on an evaluation of the relative merit of each such site and shall make findings, applying the policies, goals, and objectives of Chapter 3 (commencing with Section 30200) of Division 20 of the Public Resources Code.

(b) For each site it evaluates and ranks in the final report required by subdivision (a) of Section 5612, the coastal commission shall recommend terms and conditions in order to ensure that the construction and operation of a terminal at such site will be in accordance with the policies, goals, and objectives specified in subdivision (a).

5615. Prior to the adoption of the final report required by subdivision (a) of Section 5612, the coastal commission shall hold at least one public hearing in each county in which a potential site for an LNG terminal proposed for inclusion in such report is located.

5616. In order to carry out its responsibilities under this chapter, the coastal commission, its staff, and any persons under contract to

the coastal commission shall have the authority to exercise the powers granted city and county planning agency personnel pursuant to Section 65103 of the Government Code, but such powers may be exercised only in the presence of planning agency personnel from a city or county within whose jurisdiction the potential site is located.

5617. The provisions of Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to any report of the coastal commission required by this article.

5618. The coastal commission may use a hearing officer to assist it in carrying out any of its responsibilities under this article.

5619. Any activity undertaken by a person which is necessary to evaluate and rank a potential site for an LNG terminal, as required by this chapter, shall not be a "development" for the purposes of Section 30106 of the Public Resources Code.

Article 6. Permit to Construct and Operate the LNG Terminal

5630. Not later than July 31, 1978, the commission shall issue a decision on the application for a permit to construct and operate an LNG terminal pursuant to this article.

5631. (a) The commission shall not issue a permit for construction and operation of a terminal at any site not evaluated and ranked by the coastal commission pursuant to Section 5612.

(b) If the commission issues a permit, the commission shall issue a permit for construction and operation at the site designated as the highest ranked site pursuant to Section 5612. However, the commission may select a lower ranked site if it has determined with respect to each higher ranked site that it is not feasible to complete construction and commence operations of the terminal at such higher ranked site in sufficient time to prevent significant curtailment of high priority requirements for natural gas and that approval of the lower ranked site will significantly reduce such curtailment.

5632. The commission shall not issue a permit for construction and operation at any site unless it finds to do so is consistent with public health, safety, and welfare and may impose such conditions on the issuance of a permit as may be necessary or appropriate to ensure the public health, safety, and welfare.

5633. If the commission issues a permit for construction and operation, it shall impose as a condition of such permit each term and condition recommended by the coastal commission for the selected site pursuant to Article 5 (commencing with Section 5610) unless the commission first finds with respect to each term or condition any of the following:

(a) Imposition of the term or condition will cause delays in commencement of terminal operations that will result in significant curtailment of high priority natural gas requirements and that deletion or modification of the term or condition will avoid or significantly reduce such curtailment.

(b) The report of the coastal commission recommending the term or condition was not based on substantial evidence, considering the record as a whole.

(c) Imposition of the term or condition will adversely affect public health or safety.

5634. In the event that the commission's decision is to issue a permit for the construction and operation of a terminal at a site not specified in an application submitted pursuant to this chapter, the applicant may amend such application to specify such other site. In such an event the commission shall transmit to the coastal commission, for its review, the conceptual design of the terminal at such site, as included in such amended application; and within 60 days the coastal commission shall recommend appropriate terms and conditions for any permit proposed to be issued with respect to such site. Any terms and conditions recommended pursuant to this section shall be subject to the provisions of Section 5633.

5635. (a) For all purposes of this chapter, the commission shall be the lead agency for the purpose of complying with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) In fulfilling its responsibilities pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, the commission is authorized, upon payment of appropriate consideration, to become the successor in interest to any local government or state agency which may currently have outstanding contracts which are germane to the commission's responsibilities under this section.

5636. (a) Prior to issuance of a permit to construct and operate a terminal, the commission shall hold at least one public hearing in the city or county where the terminal is proposed to be located.

(b) To the greatest extent possible, the commission shall expeditiously provide information to such city or county and cooperate with requests for information to enable the city or county to develop and present recommendations in a timely fashion.

(c) The city or county within whose jurisdiction the terminal is proposed to be located may hold public hearings on the proposed terminal.

(d) Such city or county may make appropriate recommendations to the commission, including, but not limited to, recommendations regarding safety, protection of the environment, and local land use. Such recommendations shall be submitted to the commission not later than May 15, 1978.

5637. The commission shall adopt regulations governing the safety and construction of the terminal. In adopting such regulations the commission shall contract with the energy commission, and shall consult with the Division of Industrial Safety of the Department of Industrial Relations and with any other relevant state or federal agency, for the provision of such information as the commission may require.

The commission shall establish a monitoring system to ensure that any terminal authorized pursuant to this chapter is constructed and operated in compliance with all applicable regulations adopted and terms and conditions established pursuant to this chapter.

5638. The commission shall monitor costs incurred in the construction, or in the preparation for construction, of any terminal subject to this chapter in order to determine if the costs are in the best interests of the ratepayers. Such monitoring may commence prior to the issuance of a permit pursuant to this chapter.

5639. No provision of this article shall be construed to abridge or limit in any manner the jurisdiction of the Division of Industrial Safety of the Department of Industrial Relations conferred pursuant to Division 5 (commencing with Section 6300) of the Labor Code. Notwithstanding the provisions of Section 7624 of the Labor Code, all matters relating to LNG storage tanks shall be within the jurisdiction of the Division of Industrial Safety, except for those provisions pertaining to the issuance of permits.

Article 7. Additional Studies

5650. Not later than 12 months after the effective date of this chapter, the coastal commission shall complete a final study of potential offshore sites and types of terminals for such sites. Such study shall indicate the most appropriate offshore terminal site or sites, in the coastal commission's judgment, together with the most appropriate type or types of terminals for each such site.

The results of such study shall be transmitted to the commission, to the energy commission, to the Governor, and to each house of the Legislature.

SEC. 3. The Legislature declares that this act is not intended and should not be construed as expressing the position of the State of California on any currently pending proposal for delivering natural gas from the north slope of the State of Alaska to the remainder of the continental United States. The State of California proposes to determine state policy for siting of appropriate liquefied natural gas terminals subsequent to such time as the President and the Congress of the United States may decide to transport such natural gas in liquefied form.

SEC. 4. The sum of two million eight hundred eighty thousand dollars ($2,880,000) is hereby appropriated from the General Fund to the following agencies for expenditure, without regard to fiscal years, pursuant to the following schedule:

Schedule:

(a) The sum of one million two hundred twelve thousand dollars ($1,212,000), for expenditure by the California Coastal Commission for the study required by Article 7 (commencing with Section 5650) of Chapter 10 of Division 2 of the Public Utilities Code.

(b) The sum of one million six hundred sixty-eight thousand dollars ($1,668,000), for expenditure by the California Coastal

Commission and the Public Utilities Commission to meet initial operating costs required by such Chapter 10; provided, however, that moneys appropriated for such operating costs shall be repaid to the General Fund out of fees authorized to be imposed by such Chapter 10.

SEC. 5. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

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

A comprehensive state regulatory process for liquefied natural gas terminals is urgently needed in view of impending plans by private industry to construct such terminals. Failure to establish such a regulatory process immediately may well result in the construction of terminals which, due to their location and technology, pose an immediate and unalterable threat to the preservation of the public peace, health, or safety. Therefore, it is necessary that this act take effect immediately.

CHAPTER 856

An act to add Section 38224 to the Health and Safety Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 38224 is added to the Health and Safety Code, to read:

38224. (a) A qualified physician and surgeon who diagnoses a developmental disability, as defined in subdivision (a) of Section 38010, of a patient who is a minor shall attempt to determine from the patient, the parents or guardian of the patient, or the regional center for the area whether such person has been previously referred to the regional center for the area. If the patient has not been previously referred to the regional center, the physician and surgeon shall inform a parent or the guardian of the patient of the existence of the regional center for the area, its address and telephone number, and shall describe to such person the services available through the regional center, and shall, upon request of the

parent or guardian of the patient, refer in writing the patient through his parent or guardian to the regional center. Upon obtaining the consent of the patient's parent or guardian, the physician and surgeon shall notify the regional center of such referral.

For the purposes of this section, "qualified physician and surgeon" means those physicians and surgeons who have recognized and accredited training and a specialized pediatric practice in childhood disabilities.

(b) Each regional center shall maintain a record of every developmentally disabled person under the age of 18 years known by the regional center to have been referred to it for its services, whether or not services are actually provided.

(c) The state department shall transmit a copy of this section and of subdivision (a) of Section 38010 to every physician and surgeon licensed to practice in this state and every general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2. A list of the name and address of each regional center and such other pertinent information as the state department deems appropriate shall also be transmitted, both in English and Spanish.

(d) It is not the intent of the Legislature in enacting this section to prevent any physician and surgeon subject to subdivision (a) from providing care or treatment to a developmentally disabled minor or to deprive developmentally disabled minors of adequate care provided through sources other than a regional center.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden on local government.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act establishing a referral procedure may be added at the earliest opportunity to the Lanterman Developmental Disabilities Services Act which was repealed and added by Chapters 1364 to 1373, inclusive, of the Statutes of 1976, it is necessary that this act take effect immediately.

CHAPTER 857

An act to amend Section 12020 of the Penal Code, relating to weapons.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(b) Subdivision (a) shall not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when such is authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and is not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, the term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section a "sawed-off shotgun" means any

firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths inch of the body.

CHAPTER 858

An act to add Section 1328.6 to the Penal Code, relating to witnesses.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 1328.6 is added to the Penal Code, to read:

1328.6. Whenever any criminalist, questioned document examiner, latent print analyst, polygraph examiner employed by the Department of Justice, a police department, a sheriff's office, a district attorney's office, or an intelligence specialist or other technical specialist employed by the Department of Justice, or a custodial officer employed in a local detention facility, is a witness before any court or magistrate in any criminal action or proceeding in connection with a matter regarding an event or transaction which he has perceived or investigated in the course of his official duties, where his testimony would become a matter of public record, and where he is required to state the place of his residence, he need not state the place of his residence, but in lieu thereof, he may state his

business address, unless the court finds, after an in camera hearing, that the probative value of the witness's residential address outweighs the creation of substantial danger to the witness.

Nothing in this section shall abridge or limit a defendant's right to discover or investigate such information. This section is not intended to apply to confidential informants.

CHAPTER 859

An act to add Section 16721.6 to the Business and Professions Code, relating to restraints of trade, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 16721.6 is added to the Business and Professions Code, to read:

16721.6. It is the intent of the Legislature that Sections 16721 and 16721.5 be interpreted and applied so as not to conflict with federal law with respect to transactions in the interstate or foreign commerce of the United States to the extent, if any, not preempted by the Export Administration Act of 1969 as amended (50 U.S.C. App. Sec. 2401 and following) and any regulations promulgated thereunder.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Legislation affecting foreign boycotts has been passed by the Congress of the United States which expressly permits certain activities and which preempts any law of the several states which pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

This act insures that the same activities permissible under federal law are permissible under state law. It thus avoids the necessity of extensive and divisive litigation as the only means of determining the consistency of coverage of federal and state law.

CHAPTER 860

An act to amend Sections 4351 and 4363 of, and to add Sections 4363.1, 4363.2, and 4363.3 to, the Civil Code, relating to dissolution of marriage.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 4351 of the Civil Code is amended to read:

4351. In proceedings under this part, the superior court has jurisdiction to inquire into and render such judgments and make such orders as are appropriate concerning the status of the marriage, the custody and support of minor children of the marriage, the support of either party, the settlement of the property rights of the parties and the award of attorneys' fees and costs; provided, however, no such order or judgment shall be enforceable against an employee pension benefit plan unless the plan has been joined as a party to the proceeding.

SEC. 2. Section 4363 of the Civil Code is amended to read:

4363. The court may order that a person who claims an interest in a proceeding under this part be joined as a party to the proceeding in accordance with rules adopted by the Judicial Council pursuant to Section 4001; however, an employee pension benefit plan shall be joined as a party to a proceeding under this part only in accordance with the provisions of Section 4363.1.

SEC. 3. Section 4363.1 is added to the Civil Code, to read:

4363.1. (a) Upon written application by a party to a proceeding under this part, the clerk shall enter an order joining as a party to the proceeding any employee pension benefit plan in which either party to the proceeding claims an interest which is or may be subject to disposition by the court. A copy of the joinder request together with a copy of a summons and a blank copy of a notice of appearance both in form and content approved by the Judicial Council shall be served upon the employee pension benefit plan in the same manner as service of papers in civil actions generally. Service of the summons upon a trustee or administrator of the employee pension benefit plan in his capacity as such, or upon any agent designated by the plan for service of process in his capacity as such, shall constitute service upon the employee pension benefit plan.

(b) A notice of appearance shall be filed and served by the employee pension benefit plan upon the party requesting joinder within 45 days of the date of the service upon the employee pension benefit plan of a copy of the joinder request and summons. The employee pension benefit plan shall indicate in the notice of appearance whether it consents to be governed by the provisions of Section 4363.2. If it fails to do so, the plan shall be deemed not to have

consented. Notwithstanding any contrary provision of law, the employee pension benefit plan shall not be required to pay any fee to the clerk of the court as a condition to filing such notice of appearance or any subsequent paper in the proceeding.

(c) If the employee pension benefit plan has been served and no notice of appearance, notice of motion to quash service of summons pursuant to Section 418.10 of the Code of Civil Procedure, or notice of the filing of a petition for writ of mandate as provided in such section, has been filed with the clerk of the court within the time specified in the summons or such further time as may be allowed, the clerk, upon written application of the party requesting joinder, shall enter the default of the employee pension benefit plan in accordance with Chapter 2 (commencing with Section 585) of Title 8 of Part 2 of the Code of Civil Procedure.

SEC. 4. Section 4363.2 is added to the Civil Code, to read:

4363.2. (a) An employee pension benefit plan which elects to be governed by the provisions of this section shall not be required to, but may, appear at any hearing in any proceeding under this part to which the plan has been joined as a party. For purposes of the Code of Civil Procedure, such plan shall be considered a party appearing at trial with respect to any hearing at which the interest in the plan of the parties is an issue before the court. Those provisions of any order entered in the proceeding which affect a plan electing to be governed by the provisions of this section, or which affect any interest either the petitioner or respondent may have or claim under such plan, shall not become effective until 30 days after the order has been served upon the employee pension benefit plan; provided, however, that the plan may agree in writing to waive all or any portion of the 30-day period. If within the 30-day period, the plan files in the proceeding a motion to set aside or modify those provisions of the order affecting it, such provisions shall not become effective until the court has resolved the motion.

(b) At any hearing on a motion to set aside or modify an order pursuant to subdivision (a), any party may present further evidence on any issue relating to the rights of the parties under the employee pension benefit plan or the extent of the parties' community or quasi-community property interest in the plan. Any findings of fact or conclusions of law made by the court with respect to the order which is the subject of the motion shall take account of such evidence.

(c) The grounds upon which the provisions of an order affecting an employee pension benefit plan or the interest of the petitioner and respondent therein shall be set aside or modified shall include, but shall not be limited to, the following:

(1) Neither petitioner nor respondent has any interest, whether vested or unvested, in the employee pension benefit plan.

(2) The order grants greater or different rights to the nonemployee spouse, the employee spouse, or the nonemployee spouse and employee spouse combined, than the employee spouse

has under the terms of the employee pension benefit plan.

(3) The order requires payment to the nonemployee spouse of a benefit which under the terms of the plan is only payable on account of or after the death of the employee spouse to a person specified by the terms of the employee pension benefit plan and not selected by the employee spouse.

(4) The order requires the employee pension benefit plan to make payments in discharge of the nonemployee spouse's interest in the plan after the nonemployee spouse's death.

(5) The order awards to the nonemployee spouse any of the separate property portion or more than 50 percent of the community and quasi-community property portion of the employee's interest under the employee pension benefit plan.

SEC. 5. Section 4363.3 is added to the Civil Code, to read:

4363.3. As used in this part, the term "employee pension benefit plan" includes public and private retirement and pension plans.

SEC. 6. The provisions of Sections 1 and 4 of this act shall apply to any order or judgment entered in a proceeding under Part 5 (commencing with Section 4000) of Division 4 of the Civil Code on or after the operative date of this act. Where an employee pension benefit plan has been joined as a party to a proceeding under Part 5 (commencing with Section 4000) of Division 4 of the Civil Code before the operative date of this act, Section 4363.2 of the Civil Code shall apply to any order entered in such proceeding on or after the date the employee pension benefit plan files in the proceeding a written election to be governed by the provisions of such section. A copy of such written election shall be served upon the party who requested the joinder of the employee pension benefit plan in the manner prescribed by law.

SEC. 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 861

An act to amend Section 49073 of the Education Code and to amend Sections 49064, 49076, 67121, 67122, 67131, 67132, 67140, 76222, 76231, and 76240 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, relating to student records.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 49064 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

49064. A log or record shall be maintained for each pupil's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Parents or pupils to whom access is granted pursuant to Section 49069 or paragraph (6) of subdivision (a) of Section 49076;

(b) Parties to whom directory information is released pursuant to Section 49073;

(c) Parties to whom written consent has been executed by the parent pursuant to Section 49075; or

(d) School officials or employees having a legitimate educational interest pursuant to paragraph (1) of subdivision (a) of Section 49076.

The log or record shall be open to inspection only by a parent and the school official, or his designee, responsible for the maintenance of pupil records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, and administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

SEC. 2. Section 49073 of the Education Code is amended to read:

49073. School districts shall adopt a policy indentifying those categories of directory information as defined in subdivision (c) of Section 49061 which may be released. The district shall determine which individuals, officials, or organizations may receive directory information, provided, however, that no information may be released to a private profitmaking entity other than employers, prospective employers and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations. The names and addresses of pupils enrolled in grade 12 or who have terminated enrollment prior to graduation may be provided to a private school or college operating under the provisions of Chapter 3 (commencing with Section 94300) of Part 59 of Division 10 or its authorized representative; provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information. Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interest of pupils.

Directory information may be released according to local policy as to any pupil or former pupil, provided that notice is given at least on

an annual basis of the categories of information which the school plans to release and of the recipients. No directory information shall be released regarding any pupil when a parent has notified the school district that such information shall not be released.

SEC. 3. Section 49076 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

49076. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate purposes of the requester shall be permitted to the following:

(1) School officials and employees of the district and members of a school attendance review board appointed pursuant to Section 48321, provided that any such person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees, or the United States Office of Civil Rights, where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

(4) Other State and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests such access.

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid; provided, that information permitting the personal identification of students or their parents

may be disclosed only as may be necessary for such purposes as to determine the eligiblity of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) Accrediting organizations in order to carry out their accrediting functions.

(4) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(5) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. Such information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency, or organization without the written consent of the pupil's parent; provided, however, that this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate interest in the information.

SEC. 4. Section 67121 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

67121. Colleges and universities shall notify students in writing of their rights under this chapter within two weeks of the student's enrollment next following January 1, 1977, and at least annually thereafter.

The notice shall take a form which reasonably notifies students of the availability of the following specific information:

(a) The types of student records and information contained therein which are directly related to students and maintained by the institution.

(b) The official responsible for the maintenance of each type of record.

(c) The location of the log or record required to be maintained pursuant to Section 67122.

(d) The criteria to be used by the institution in defining "officials and employees" and in determining "legitimate educational interest" as used in Section 67122 and subdivision (a) of Section 67143.

(e) The policies of the institution for reviewing and expunging those records.

(f) The right of the student to access to his records.

(g) The procedures for challenging the content of student records.

(h) The cost, if any, which will be charged for reproducing copies of records.

(i) The categories of information which the institution has designated as directory information pursuant to Section 67140.

(j) Any other rights and requirements set forth in this chapter and the right of the student to file a complaint with the United States Department of Health, Education, and Welfare concerning an alleged failure by the institution to comply with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C.A. Section 1232g).

SEC. 5. Section 67122 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

67122. A log or record shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Students to whom access is granted pursuant to Section 67130;

(b) Parties to whom directory information is released pursuant to Section 67140;

(c) Parties for whom written consent has been executed by the student pursuant to Section 67142;

(d) Officials or employees having a legitimate educational interest pursuant to subdivision (a) of Section 67143.

The log or record shall be open to inspection only by the student and the college or university official or his designee responsible for the maintenance of student records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

SEC. 6. Section 67131 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

67131. (a) A student may waive his right of access to any student records devoted solely to confidential recommendations for career placement, postsecondary admission or the receipt of an honor or honorary recognition; provided, that such recommendations are used solely for the purpose for which they were specifically intended, and provided, that the student shall be notified, upon request, of the names of all persons making confidential recommendations. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a college or university.

(b) The fact that a waiver has or has not been executed pursuant to this section shall not be revealed to any person other than the person or persons responsible for maintenance of student records or

the person or persons making the confidential recommendation.

(c) No student may be required to sign a form saying that he has not waived access to any confidential recommendation.

SEC. 7. Section 67132 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

67132. Each college or university shall establish procedures whereby a student may request, in writing, that information be corrected or removed from the student's record which he alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of competence; or (4) not based upon the personal observation of a named person with the time and place of the observation noted.

If any of the student's allegations are sustained, the information shall be corrected or removed from the student's record and destroyed.

If any of the student's allegations are not sustained, the student shall have the right to submit a written statement of his objections to the information. This statement shall become a part of the student's record until such time as the information objected to is corrected or removed.

This section shall apply to grades and other academic evaluations only to the extent that such grades or evaluations are alleged to have been incorrectly recorded. However, this section shall not be construed to preclude colleges or universities from establishing other procedures whereby students may appeal grades or other academic evaluations on grounds other than having been incorrectly recorded.

SEC. 8. Section 67140 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

67140. Colleges and universities shall adopt policies identifying those categories of directory information as defined in subdivision (c) of Section 67110, which may be released. The names and addresses of students may be provided to a private school or college operating under the provisions of Chapter 3 (commencing with Section 94300) of Part 59 of Division 10 of this title, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information.

Any college or university may, in its discretion, limit or deny the release of specific categories of directory information based upon a determination of the best interests of students.

Directory information may be released according to local policy as to any former student or any student currently attending the college or university, provided that public notice is given at least annually of the categories of information which the college or university plans to release.

No directory information shall be released regarding any student or former student when the student or former student has notified the institution in writing that such information shall not be released.

SEC. 9. Section 76222 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

76222. A log or record shall be maintained for each students record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Students to whom access is granted pursuant to Section 76230;

(b) Parties to whom directory information is released pursuant to Section 76240;

(c) Parties for whom written consent has been executed by the student pursuant to Section 76242; or

(d) Officials or employees having a legitimate educational interest pursuant to subdivision (a) of Section 76243.

The log or record shall be open to inspection only by the student and the community college official or his designee responsible for the maintenance of student records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

SEC. 10. Section 76231 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

76231. A student may waive his right to access to student records devoted solely to confidential recommendations for career placement, postsecondary admission, or the receipt of an honor or honorary recognition; provided that such recommendations are used solely for the purpose for which they were specifically intended, and provided, that the student shall be notified, upon request, of the names of all persons making confidential recommendations. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a community college.

SEC. 11. Section 76240 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

76240. Community college districts shall adopt a policy identifying those categories of directory information as defined in subdivision (c) of Section 76210 which may be released. The names and addresses of students may be provided to a private school or college operating under the provisions of Sections 8080-8093, 33190-33192, 60670-60672, 94000-94409, or its authorized representative, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution, and provided further that any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in

addition, the privilege of the school or college to receive such information shall be suspended for a period of two years from the time of discovery of the misuse of such information.

Any community college district may, in its discretion, limit or deny the release of specific categories of directory information based upon a determination of the best interests of students.

Directory information may be released according to local policy as to any former student or any student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. No directory information shall be released regarding any student or former student when the student or former student has notified the institution that such information shall not be released.

SEC. 12. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 862

An act to add Section 1418.5 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 1418.5 is added to the Health and Safety Code, to read:

1418.5. No regulation adopted with respect to skilled nursing facilities or intermediate care facilities shall prohibit patients in the facility from storing nonprescription medications at their bedside unless contraindicated by the patient's attending physician.

CHAPTER 863

An act to add Section 340.6 to the Code of Civil Procedure, relating to limitations of actions.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 340.6 is added to the Code of Civil Procedure, to read:

340.6. (a) An action against an attorney for a wrongful act or omission, other than for actual fraud, arising in the performance of professional services shall be commenced within one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the facts constituting the wrongful act or omission, or four years from the date of the wrongful act or omission, whichever occurs first. In no event shall the time for commencement of legal action exceed four years except that the period shall be tolled during the time that any of the following exist:

(1) The plaintiff has not sustained actual injury;

(2) The attorney continues to represent the plaintiff regarding the specific subject matter in which the alleged wrongful act or omission occurred;

(3) The attorney willfully conceals the facts constituting the wrongful act or omission when such facts are known to the attorney, except that this subdivision shall toll only the four-year limitation; and

(4) The plaintiff is under a legal or physical disability which restricts the plaintiff's ability to commence legal action.

(b) In an action based upon an instrument in writing, the effective date of which depends upon some act or event of the future, the period of limitations provided for by this section shall commence to run upon the occurrence of such act or event.

CHAPTER 864

An act to amend Section 49076 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, relating to student records.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 49076 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

49076. A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) School officials and employees of the district, members of a

school attendance review board appointed pursuant to Section 48321, and any volunteer aide, 18 years of age or older, who has been investigated, selected, and trained by a school attendance review board for the purpose of providing followup services to students referred to the school attendance review board, provided that any such person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, and administrative head of an education agency, state education officials, or their respective designees, or the United States Office of Civil Rights, where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests such access.

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(2) Agencies or organizations in connection with a student's application for, or receipt of, financial aid; provided, that information permitting the personal identification of students or their parents may be disclosed only as may be necessary for such purposes as to determine the eligibility of the pupil for financial aid to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) Accrediting organizations in order to carry out their accrediting functions.

(4) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing,

validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

(5) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. Such information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

No person, persons, agency, or organization permitted access to pupil records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency, or organization without the written consent of the pupil's parent; provided, however, that this paragraph shall not be construed as to require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate interest in the information.

CHAPTER 865

An act to amend Sections 143.5, 186.3, and 2106.5 of the Streets and Highways Code, relating to transportation funds, and making an appropriation therefor.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 143.5 of the Streets and Highways Code is amended to read:

143.5. (a) The commission may include, in the annual budget prepared pursuant to Section 143.1, an amount not to exceed the equivalent of the total amount of the funds available to the state by the federal government annually for TOPICS projects, as defined in Section 2306, for allocation by the department to cities and counties within urban areas; provided, that the commission shall not include more than twelve million dollars ($12,000,000) in any year. Such allocations shall be in lieu of equivalent allocations of TOPICS funds as provided in Chapter 6 (commencing with Section 2300) of Division 3, but shall not be allocated on a project-by-project basis.

(b) The commission shall also include in the budget an equivalent amount of federal TOPICS funds which may be used as the funds set aside by Section 190 for grade separation projects in urban areas to

the extent that such projects qualify for TOPICS funding, with any additional amounts to be used for TOPICS projects on the state highway system.

(c) Notwithstanding the provisions of Section 2324, all exchange funds and TOPICS funds budgeted pursuant to this section shall be included in the computation of compliance with the requirements of Section 188.

SEC. 2. Section 186.3 of the Streets and Highways Code is amended to read:

186.3. Funds apportioned pursuant to Section 2106 may be expended for highway-oriented transportation studies requested by a state or federal agency. Any expenditure of funds apportioned pursuant to Section 2106 or 2107 by a county or city for the acquisition of rights-of-way or construction upon a state highway, or upon a county road or city street not under the jurisdiction of the county or city that complements the system of roads or streets of the county or city, shall be deemed an expenditure upon the system of roads or streets of the county or city, as the case may be, making such expenditure.

SEC. 3. Section 2106.5 of the Streets and Highways Code is amended to read:

2106.5. (a) Each county and any of its incorporated cities may enter into an agreement regarding the base sum established by paragraph (1) of subdivision (c) of Section 2106, providing for expenditure of the amounts apportioned to the county and apportioned for expenditure within the cities participating in the agreement upon roads and streets within the county and the cities participating in the agreement.

(b) Any of the incorporated cities within a county may enter into an agreement among themselves regarding the amount apportioned to them pursuant to paragraph (3) of subdivision (c) of Section 2106 for expenditure upon city streets within the cities participating in the agreement.

(c) Any such agreement shall be filed with the State Controller. After verification of the agreement by the State Controller, the State Controller shall make disposition of the apportionments to the parties participating in the agreement in accordance with terms of the agreement.

CHAPTER 866

An act to add Section 2620.5 to the Business and Professions Code, relating to physical therapy, and making an appropriation therefor.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 2620.5 is added to the Business and Professions Code, to read:

2620.5. A physical therapist may, upon specified authorization of a physician and surgeon, perform tissue penetration for the purpose of evaluating neuromuscular performance as a part of the practice of physical therapy, as defined in Section 2620, provided such person is certified by the committee to perform such tissue penetration and evaluation, and provided the physical therapist does not develop or make diagnostic or prognostic interpretations of the data obtained.

The committee, after meeting and conferring with the Division of Allied Health, shall:

(a) Adopt standards and procedures for tissue penetration for the purpose of evaluating neuromuscular performance by certified physical therapists.

(b) Establish standards for the certification of physical therapists to perform tissue penetration for the purpose of evaluating neuromuscular performance.

(c) Certify physical therapists meeting standards established by the committee pursuant to this section.

The committee is authorized to set by regulation suitable certification and renewal fees of not more than two hundred dollars ($200) each, based on the cost of operating the certification program. The certification fee shall be paid by the applicant at the time application is filed and the renewal fee shall be paid as provided in Section 2683.

CHAPTER 867

An act to amend Sections 16522 and 16612 of the Government Code, relating to public funds.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations

of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

SEC. 2. Section 16612 of the Government Code is amended to read:

16612. The following securities may be received as security for deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949 (42 USC Sec. 1452 et seq.)) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue on tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued

by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bond and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16611, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the savings and loan association;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

CHAPTER 868

An act to amend and repeal Section 7159 of the Business and Professions Code and to amend and repeal Sections 1805.6 and 1810.10 of the Civil Code, relating to contracts.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 7159 of the Business and Professions Code, as amended by Section 1 of Chapter 1271 of the Statutes of 1976, is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing,

remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by this section.

The requirements pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

This section shall not be construed to prohibit the parties to a home improvement contract from agreeing to provisions for a deferred payment price pursuant to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee under this chapter, his agent, or saleman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 1.5. Section 7159 of the Business and Professions Code, as amended by Section 1 of Chapter 1271 of the Statutes of 1976, is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by this section.

The requirements pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering

100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

This section shall not be construed to prohibit the parties to a home improvement contract from agreeing to provisions for a deferred payment price pursuant to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 2. Section 7159 of the Business and Professions Code, as added by Section 2 of Chapter 1271 of the Statutes of 1976, is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

(e) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

(f) In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, except that the contractor may receive an initial downpayment authorized by subdivision (e).

(g) The requirements of subdivisions (d), (e) and (f) pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract; and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

This section shall become operative January 1, 1980.

SEC. 2.5. Section 7159 of the Business and Professions Code, as added by Section 2 of Chapter 1271 of the Statutes of 1976, is amended to read:

7159. This section shall apply only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to such transaction and who contracts with an owner or tenant for work upon a building or structure for proposed repairing, remodeling, altering, converting, or modernizing such building or structure and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and

materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and any changes in the contract subject to the provisions of this section shall be evidenced by a writing and shall be signed by all the parties to the contract thereto. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and be substantially completed.

(c) A description of the work to be done and description of the materials to be used and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents.

(e) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, such downpayment shall not exceed one hundred dollars ($100) or 1 percent of the contract price, whichever is the greater.

(f) In no event shall the payment schedule provide for the contractor to receive payment in excess of 100 percent of the value of the work performed on the project at any time, except that the contractor may receive an initial downpayment authorized by subdivision (e).

(g) The requirements of subdivisions (d), (e) and (f) pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, his agent, or salesman is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

This section shall become operative January 1, 1980.

SEC. 3. Section 1805.6 of the Civil Code, as amended by Section 3 of Chapter 1271 of the Statutes of 1976, is amended to read:

1805.6. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the amount financed for goods purchased under a retail installment contract until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the amount financed for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall not be construed to apply to home improvement contracts, as defined in Section 7151.2 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 4. Section 1805.6 of the Civil Code, as added by Section 4 of Chapter 1271 of the Statutes of 1976, is amended to read:

1805.6. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the amount financed for goods purchased under a retail installment contract until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the amount financed for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall become operative on January 1, 1980.

SEC. 5. Section 1810.10 of the Civil Code, as amended by Section 5 of Chapter 1271 of the Statutes of 1976, is amended to read:

1810.10. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the outstanding balance for goods purchased under a retail installment account until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the outstanding balance for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall not be construed to apply to home improvement contracts, as defined in Section 7151.2 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 6. Section 1810.10 of the Civil Code, as added by Section 6 of Chapter 1271 of the Statutes of 1976, is amended to read:

1810.10. (a) Notwithstanding the provision of any contract to the contrary, except as provided in subdivision (b), no retail seller shall assess any finance charge against the outstanding balance for goods purchased under a retail installment account until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the outstanding balance for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) This section shall become operative January 1, 1980.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 367 are both chaptered and this bill amends Section 7159 of the Business and Professions Code, as amended by Section 1 of Chapter 1271 of the Statutes of 1976, and Senate Bill No. 367 amends Section 7159, as added by Section 2 of Chapter 1271 of the Statutes of 1976, that the amendments reflective by both bills be given effect and incorporated in Section 7159 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 367 are chaptered and Senate Bill No. 367 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 367 are both chaptered and amend Section 7159 of the Business and Professions Code, as added by Section 2 of Chapter 1271 of the Statutes of 1976, and this bill is chaptered after Senate Bill No. 367, that the amendments to such Section 7159 proposed by both bills be given effect and incorporated in such Section 7159 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative on January 1, 1980, and only if this bill and Senate Bill No. 367 are both chaptered, both amend Section 7159 as added by Section 2 of Chapter 1271 of the Statutes of 1976, and Senate Bill No. 367 is chaptered before this bill, in which case Section 2 of this act shall not become operative.

CHAPTER 869

An act to amend Section 11004 of, to add Section 10851 to, and to repeal Sections 10851 and 10851.5 of, the Welfare and Institutions Code, relating to public assistance records.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 10851 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 10851 is added to the Welfare and Institutions Code, to read:

10851. (a) Each county shall establish and maintain a case record for each public assistance case and shall retain such record for a period of four years. The four-year retention period begins on the date of the final aid payment. The records shall be retained beyond the four-year retention period when the county is notified by the department to retain records for a longer period of time. The department shall instruct a county to retain records beyond the four-year period when such retention is necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over four years old in any case file, active or inactive, after audit by the department. However, if a civil or criminal action is commenced before the expiration of the four-year period against a person based on alleged unlawful application for, or receipt of, public assistance, no portion of the case record of such person shall be destroyed until such action is terminated.

(c) Each county shall maintain fiscal, statistical and other such records necessary for maintaining accountability and meeting reporting requirements relating to the administration of public assistance. Such fiscal and reporting records shall be retained for a minimum period of four years from the date of submission of the final expenditure report and shall be retained beyond the four-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for welfare-related purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

SEC. 3. Section 10851.5 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 11004 of the Welfare and Institutions Code is amended to read:

11004. The provisions of this code relative to public social services

for which state grant-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for such public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, such public social services shall be informed as to the provisions of eligibility and his responsibility for reporting facts material to a correct determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, such public social services shall be responsible for reporting accurately and completely within his competence those facts required of him pursuant to subdivision (a) and to report promptly any changes in those facts.

(c) Any person who makes full and complete disclosure of those facts as explained to him pursuant to subdivision (a) is entitled to rely upon the award of public social services as being accurate, and that the warrant he receives correctly reflects the award made, except that the county providing the social services shall be allowed a period of six months following the month of payment, or six months following the hearing provided in subdivision (e), within which to adjust any errors or changes in amount of grant resulting from changes in income or need which occur too late to be reflected in the grant for the current month. Whenever possible, adjustments or overpayments shall be prorated evenly over the adjustment period.

(d) If any overpayment which results because of the willful failure to report facts in accordance with subdivision (b) or because of any willfully fraudulent device, the county providing the social services shall be allowed a period of one year following the month of the discovery of the overpayment, or one year following the hearing provided in subdivision (e), to adjust current grants to recover the overpayment. Such adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

(e) Current grants may be reduced because of prior overpayments only if the recipient has income or resources available in the amount by which the county proposes to reduce payment; except that where there is evidence which clearly establishes that a recipient willfully withheld information about his income or resources, such income or resources may be considered in the determination of need to reduce the amount of the grant in current or future periods. Prior to effecting any reduction of current grants to recover prior overpayments, the recipient shall be advised of the proposed reduction and of his entitlement to a hearing on the propriety of the reduction. In no event shall the grant to a needy child be reduced unless the parents or other responsible persons have sufficient available resources or income to meet the current needs of the needy child according to the department standard during the period of reduction.

(f) If it is found that a recipient or a family was possessed of property in excess of the amount permitted by law, and it cannot be established that the recipient or family received such public social service in bad faith, without honestly believing eligibility was properly established, the amount collectible shall be limited to an amount equal to the market value of the excess property or the value of the public social service granted during the period the excess property was held, whichever is the lesser.

(g) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of public social services, where the case record of such person has been destroyed after the expiration of the four-year retention period pursuant to Section 10851.

(h) When an underpayment or denial of public social service occurs because of an administrative error or inadvertence on the part of a county, and as a result the applicant or recipient does not receive the amount to which he is entitled, the county shall provide public social services equal to the full amount of the underpayment which occurred during the period of one year immediately preceding the date the error or inadvertence is discovered.

(i) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of this code. Any suits to recover overpayments described in subivision (d) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates such duty to the district attorney by ordinance or resolution.

CHAPTER 870

An act to amend Section 602 of, and to add Section 653i to, the Penal Code, relating to skiing.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 602 of the Penal Code is amended to read:

602. Every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on such lands.

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner

or legal occupant thereof, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering such lands, without first having obtained written permission from the owner of such lands or his agent, or the person in lawful possession thereof.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries

and at all roads and trails entering such lands without the written permission of the owner of such land, his agent or of the person in lawful possession, and

(1) Refusing or failing to leave such lands immediately upon being requested by the owner of such land, his agent or by the person in lawful possession to leave such lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on such lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into such lands, or

(4) Discharging any firearm.

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, his agent, or the person in lawful possession thereof.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not to be open to the general public, without the consent of the owner, his agent, or the person in lawful possession thereof.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by a peace officer and the owner, his agent, or the person in lawful possession thereof.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code; provided, such closed areas shall have been posted with notices declaring such closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through such lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable man that such person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating such closure.

SEC. 2. Section 602 of the Penal Code is amended to read:

602. Every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on such lands.

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof.

(d) Digging, taking, or carrying away from any privately owned land, without the license of the owner or legal occupant thereof, any earth, soil, stone, artifact, human bone or any artifact or human bone.

(e) Digging, taking, or carrying away from land owned by a public

agency, without the license of the proper authorities, any earth, soil, stone, artifact, or human bone or any portion of an artifact or human bone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering such lands, without first having obtained written permission from the owner of such lands or his agent, or the person in lawful possession thereof.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent, or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands without the written permission of the owner of such land, his agent or of the person in

lawful possession, and

(1) Refusing or failing to leave such lands immediately upon being requested by the owner of such land, his agent or by the person in lawful possession to leave such lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on such lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into such lands, or

(4) Discharging any firearm.

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, his agent, or the person in lawful possession thereof.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not be be open to the general public, without the consent of the owner, his agent, or the person in lawful possession thereof.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by a peace officer and the owner, his agent, or the person in lawful possession thereof.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code; provided, such closed areas shall have been posted with notices declaring such closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through such lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable man that such person has no apparent lawful business to pursue.

(q) Digging, taking, or carrying away from any parcel of public or private land, known or reasonably should be known to be a native American Indian burial site, without the license of the owner or legal occupant thereof, any earth, soil, stone, artifact, or human bone or any portion of an artifact or human bone.

For the purposes of subdivisions (d), (e), and (q), the word "artifact" shall mean anything made by human work, historic or prehistoric in nature including, but not limited to, items made by Native Americans. Notwithstanding Section 19, a violation of subdivision (q) or a violation of subdivision (d) or (e) involving the digging, taking, or carrying away of any artifact, human bone, or any portion of an artifact or human bone shall be punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding five thousand dollars ($5,000), or by both.

(r) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating such closure.

SEC. 3. Section 653i is added to the Penal Code, to read:

653i. Any person who is involved in a skiing accident and who leaves the scene of the accident knowing or having reason to believe that any other person involved in the accident is in need of medical and other assistance, except to notify the proper authorities or to obtain assistance, shall be guilty of an infraction punishable by fine not exceeding one thousand dollars ($1,000).

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 817 are both chaptered and become effective January 1, 1978, both bills amend Section 602 of the Penal Code, and this bill is chaptered after Assembly Bill No. 817, that the amendments to Section 602 proposed by both bills be given effect and incorporated in Section 602 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 817 are both chaptered and become effective January 1, 1978, both amend Section 602, and this bill is chaptered after Assembly Bill No. 817, in which case Section 1 of this act shall not become operative.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 871

An act to amend Sections 49110, 51767, and 51768 of the Education Code, relating to the employment of minors.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 49110 of the Education Code is amended to read:

49110. It is the intent of the Legislature that school district personnel responsible for issuing work permits to minors have a working knowledge of California labor laws as they relate to minors and further that such personnel be trained to provide the students practical personal guidance in career education. The superintendent of any school district in which any minor resides, a person holding a services credential with a specialization in pupil personnel services authorized by the superintendent in writing, or a certificated work experience education teacher or coordinator authorized by the

superintendent in writing, may issue to certain minors permits to work. Where the minor resides in a portion of a county not under the jurisdiction of the superintendent of any school district, the permit to work shall be issued by the superintendent of schools of the county, by a person holding a services credential with a specialization in pupil personnel services authorized by the superintendent in writing, or a certificated work experience education teacher or coordinator authorized by the superintendent in writing. No permit to work shall be issued until the written request therefor from the parent or guardian has been filed with the issuing authority.

In the event that the certificated person designated by the superintendent to issue work permits is not available, and delay in issuing a permit would jeopardize the ability of a student to secure work, a person authorized by the superintendent may issue the work permit.

In the event that a district does not employ or contract with a person holding a services credential with a specialization in pupil personnel services or with a certificated work experience education teacher or coordinator, the superintendent may authorize, in writing, a person who does not hold such a credential to issue permits to work during periods of time in which the superintendent is absent from the district.

SEC. 2. Section 51767 of the Education Code is amended to read:

51767. The governing board of any school district which maintains one or more high schools may provide for the establishment and supervision of work experience education programs in areas outside the district, either within this state or in a contiguous state.

SEC. 3. Section 51768 of the Education Code is amended to read:

51768. The governing board of any school district providing work experience and work study education may provide for employment under such program of pupils in part-time jobs located in areas outside the district, either within this state or in a contiguous state, and such employment may be by any public or private employer. Such districts may pay wages to persons receiving such training whether assigned within or without the district, except that no payments may be to or for private employers, and may provide workers' compensation insurance as may be necessary.

CHAPTER 872

An act to add Sections 12313 and 12500.7 to, and to repeal Chapter 4 (commencing with Section 12400) of Division 5 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 12313 is added to the Business and Professions Code, to read:

12313. The definitions of basic units of weight and measure, and the tables of weight and measure and weights and measures equivalents, as published by the National Bureau of Standards are recognized and shall govern weighing and measuring equipment and transactions in this state.

SEC. 2. Chapter 4 (commencing with Section 12400) of Division 5 of the Business and Professions Code is repealed.

SEC. 3. Section 12500.7 is added to the Business and Professions Code, to read:

12500.7. The department, by regulation, may establish criteria and procedures for certification of laboratories to perform measurement services which are determined by the director to be beyond the existing equipment capabilities of the department, or when warranted by financial or workload considerations.

The department shall establish a schedule of the fees to be paid by laboratories for certification which will recover the costs incurred in this certification program.

The department shall establish the fees to be charged for services of laboratories certified pursuant to this section which shall be based on the fees charged by the National Bureau of Standards and may include, in addition, a reasonable amount reflecting the amortization costs of the equipment used in such services.

The director may revoke or suspend any certification issued pursuant to this section for good cause. The director shall establish by regulation criteria to be used when revoking or suspending any certification on the basis of good cause. Any proceeding to revoke or suspend any certification shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

Measurements performed and standards certified by laboratories certified under the provisions of this section shall qualify as prima facie evidence of accuracy in any prosecution for a violation of this division.

CHAPTER 873

An act to add Section 1793.05 to the Civil Code, and to amend Sections 11705.4 and 11713.5 of, to add Section 672 to, and to repeal Section 388 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 1793.05 is added to the Civil Code, to read:

1793.05. Vehicle manufacturers who alter new vehicles into housecars shall, in addition to any new product warranty, assume any warranty responsibility of the original vehicle manufacturer for any and all components of the finished product which are, by virtue of any act of the alterer, no longer covered by the warranty issued by the original vehicle manufacturer.

SEC. 1.5. Section 388 of the Vehicle Code is repealed.

SEC. 2. Section 672 is added to the Vehicle Code, to read:

672. "Vehicle manufacturer" is any person who produces from raw materials or basic components a vehicle of a type subject to registration under this code, or who permanently alters for purposes of retail sales, new commercial vehicles by converting the vehicles into housecars which display the insignia of approval required by Section 18056 of the Health and Safety Code and any regulations issued pursuant thereto by the Department of Housing and Community Development. As used in this section, "permanently alters" does not include the permanent attachment of a camper to a vehicle.

(b) Unless a vehicle manufacturer either grants franchises to franchisees in this state, or issues vehicle warranties directly to franchisees in this state or consumers in this state, such manufacturer shall have an established place of business or a representative in this state.

(c) The scope and application of this section shall be limited to the provisions of Division 2 (commencing with Section 1500) and Division 5 (commencing with Section 11100).

SEC. 3. Section 11705.4 of the Vehicle Code is amended to read:

11705.4. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto or has willfully violated the terms and conditions of any warranty responsibilities as set forth in Title 1.7 (commencing with Section 1790) of Part 4 of Division 3 of the Civil Code.

(b) Every hearing as provided for in this section shall be pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 11713.5 of the Vehicle Code is amended to read:

11713.5. (a) It is unlawful and a violation of this code, for the holder of any license issued under this article to display for sale, offer for sale, or sell, a motor vehicle, representing such motor vehicle to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed vehicle.

(b) It is unlawful and a violation of this code, for the holder of any license issued under this article to directly or indirectly authorize or advise another holder of a license issued under this article to change the year model of a motor vehicle in the inventory of such other holder.

(c) It is unlawful and a violation of this code for the holder of any license issued under this article to display for sale, offer for sale, or sell, a housecar which has been manufactured in two or more stages unless the licensee informs the buyer that the housecar has been so manufactured and the licensee provides the buyer with a form, approved by the department, which sets forth the date of chassis and engine manufacture and the date and model year of the other stages of the vehicle. The licensee shall retain a copy of the form, which shall be signed by the purchaser prior to entering into any sales contract, indicating that the purchaser has received a copy of the form.

(d) The provisions of this section shall not apply to the displaying or offering for sale, or selling, of any new motortruck or truck tractor weighing over 10,000 pounds.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 6. Section 1 of this act shall become operative on July 1, 1978.

CHAPTER 874

An act to amend Sections 2222, 2223, and 2224 of the Food and Agricultural Code, relating to county agricultural commissioners, and making an appropriation therefor.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 2222 of the Food and Agricultural Code is amended to read:

2222. For the purpose of securing more uniform and adequate enforcement of this code throughout the state, the director may enter into cooperative agreements with the board of supervisors of any county which relate to the compensation of the county agricultural commissioner of the county, or which relate to

compensation of the county for services which are performed for the department.

SEC. 2. Section 2223 of the Food and Agricultural Code is amended to read:

2223. In the agreement the board of supervisors shall agree not to reduce the salary of the commissioner to less than the base salary. The director may agree to pay to the county a sum not to exceed six thousand six hundred dollars ($6,600) per year to be used for the salary of the commissioner, or to compensate the county for services which are performed for the department. The amount which is paid to a county shall not, however, exceed two-thirds of the amount of the salary which is paid to its commissioner.

SEC. 3. Section 2224 of the Food and Agricultural Code is amended to read:

2224. The director may agree with the board of supervisors of any county in which no salary was established for the position of commissioner for January, 1959, that the state will pay not to exceed six thousand six hundred dollars ($6,600) per year of the amount to be used for payment of the salary of a commissioner for such county, or of a commissioner who is employed pursuant to Section 2124. The amount which is paid the county shall not, however, exceed two-thirds of the amount of the salary which is paid to the commissioner.

SEC. 4. There is hereby appropriated from the General Fund in the State Treasury the sum of one hundred seventy-four thousand nine hundred dollars ($174,900) to the Department of Food and Agriculture for purposes of carrying out the provisions of this act for fiscal year 78–79.

CHAPTER 875

An act to amend Sections 16063 and 16343 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, relating to state school building aid.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 16063 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

16063. Whenever a conditional apportionment has, prior to January 1, 1978, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the State Controller that at an election called, held and conducted in the district for that purpose, two-thirds of the qualified

electors of the district voting thereat authorized the governing board of the applicant school district to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the State Controller that the amount of bonds, if any, required by the board, as a condition to the apportionment becoming final, have been issued and sold and the proceeds thereof made available for the purposes of the application and the board has certified to the State Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

SEC. 2. Section 16343 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

16343. Whenever a conditional apportionment has, prior to January 1, 1978, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the State Controller that at an election called, held and conducted in the district for that purpose, the qualified electors of the district voting thereat authorized the governing board of the applicant school district, by the same majority vote required at a district bond election, to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the State Controller that the required contribution of the district has been placed on deposit in the state school building fund of the district and the board has certified to the State Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund or the School Building Safety Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

CHAPTER 876

An act to amend Sections 55433 and 56133 of, to add Chapter 7.5 (commencing with Section 56701) to, and to repeal Article 6 (commencing with Section 55551) of Chapter 6 and Article 5 (commencing with Section 56221) of Chapter 7 of, Division 20 of, the Food and Agricultural Code, relating to agricultural products, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 55433 of the Food and Agricultural Code is amended to read:

55433. Any money in the Department of Agriculture Fund which was derived pursuant to this chapter, or Chapter 7 (commencing with Section 56101) of this division, may be expended for the administration and enforcement of any and all of the provisions of such chapters and Chapter 7.5 (commencing with Section 56701) of this division notwithstanding any other provision of law which limits the expenditure of any such money to the specific purposes or to the administration or enforcement of each of such chapters separately.

SEC. 2. Article 6 (commencing with Section 55551) of Chapter 6 of Division 20 of the Food and Agricultural Code is repealed.

SEC. 3. Section 56133 of the Food and Agricultural Code is amended to read:

56133. Any money in the Department of Agriculture Fund which was derived pursuant to this chapter or Chapter 6 (commencing with Section 55401) of this division may be expended for the administration and enforcement of any or all of the provisions of such chapters and Chapter 7.5 (commencing with Section 56701) of this division notwithstanding any other provision of law which limits the expenditure of any such money to the specific purposes or to the administration or enforcement of each of such chapters separately.

SEC. 4. Article 5 (commencing with Section 56221) of Chapter 7 of Division 20 of the Food and Agricultural Code is repealed.

SEC. 5. Chapter 7.5 (commencing with Section 56701) is added to Division 20 of the Food and Agricultural Code, to read:

CHAPTER 7.5. FARM PRODUCTS TRUST FUND

Article 1. General Provisions

56701. There is in the Department of Agriculture Fund the Farm Products Trust Fund, which is hereby created.

56702. For the purposes of this chapter:

(a) "Products fund" means the Farm Products Trust Fund.

(b) "Review board" means the Farm Products Trust Fund Review Board established pursuant to Article 2 (commencing with Section 56731) of this chapter.

56703. In addition to the fees required under Article 16 (commencing with Section 55861) of Chapter 6 and Article 17 (commencing with Section 56571) of Chapter 7 of this division, each principal applicant for a license, or for the renewal of a license, under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) shall pay to the director an annual fee of one hundred twenty-five dollars ($125) which shall be required to be paid before the director issues or renews any such license. All the fees collected pursuant to this chapter shall be deposited in the products fund. The director may establish a lower annual fee if he finds it to be sufficient to defray the costs in carrying out the provisions of this chapter.

This chapter does not apply to any licensee who pays to the seller, at the time of obtaining title, possession, or control, or at the time of contracting for the title, possession, or control, of any farm product, the full agreed purchase price of such farm product in coin or currency, lawful money of the United States.

56704. Any moneys remaining in the products fund after all the claims have been settled, discharged, or paid in any year shall be credited to the funds to be used in any other year, and the director, in view of this, shall adjust the fees provided for under Section 56703 in accordance with the provisions of that section.

56705. If a person licensed under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) of this division fails to pay for any farm product which is received by such licensee, the director shall ascertain the names and addresses of all farm products creditors together with the amounts which are due and owing to them and each of them by such licensee and shall request all such farm products creditors to file a verified statement of their respective claims with the director. The request shall be addressed to each creditor at his last known address. If by reason of the absence of records, or other circumstances which make it impossible or unreasonable for the director to ascertain the names and addresses of all such farm products creditors, the director, after exerting due diligence and making reasonable inquiry to secure such information from all reasonable and available sources, may make demand upon the products fund on the basis of information then in his possession, and thereafter is not liable or responsible for claims or the handling of claims which may subsequently appear or be discovered.

56706. If the creditor fails, refuses, or neglects to file in the office of the director his verified claim as requested by the director under this chapter, within 60 days from the date of such request, the director is relieved of further duty or liability pursuant to this chapter on behalf of such farm products creditor.

56707. Upon ascertaining all claims and statements against a respondent licensee, the director shall pay, up to the amount specified in Section 56708, from the products fund to claimants, in accordance with the provisions of this chapter and all the following terms and conditions:

(a) Such claimants shall have filed a verified complaint with the department.

(b) The amount due such claimants has been determined by an audit or investigation by the department.

(c) The amount due is not disputed by the licensee and is approved by the department or, if the claim is disputed or not agreed to by the parties, the claim shall be adjudicated by an administrative hearing and a decision rendered pursuant to Section 55749 or 56447 specifying the amount due the creditors.

56708. The director may only pay up to 50 percent of any claim from the products fund. In no case shall the total paid all the claimants under this chapter exceed twenty-five thousand dollars ($25,000) against any one licensee for any one license period.

56709. No payment shall be made from the products fund by the director on any claim until he determines, to his satisfaction, that all possible recoveries have been made under the provisions of Article 12 (commencing with Section 55741) of Chapter 6 or Article 13 (commencing with Section 56441) of Chapter 7 of this division.

56710. This chapter does not preclude a claimant from bringing any action against the licensee in any court having jurisdiction.

56711. No creditor's claim shall be paid under this chapter if the claim is based on a transaction with a person who was not subject to the provisions of this chapter at the time of the transaction.

56712. If a payment is made to any creditor from the products fund, the director shall be subrogated to all of the creditor's rights of recovery against any person or organization and the creditor shall execute and deliver to the director such instruments and papers and perform any other acts necessary to carry out the provisions of this section.

56713. In the event any moneys are expended from the products fund on behalf of any licensee, such licensee shall not be licensed in this state for a period of four years from the date such payment is made, unless the amount of money expended on his behalf shall have been repaid to the products fund and the balance, if any, due creditors plus a penalty assessment of 7 percent per annum from the date such moneys were expended from the products fund or due the creditor have been paid. In case the licensee is a corporation, this section shall apply with respect to any officer, member of the board of directors, or any person employed by such corporation in a managerial position, or any person who owns more than 25 percent of the stock of such corporation.

56714. Any money in the products fund, which the director determines is available for investment, may be invested or reinvested by the State Treasurer in any of the securities which are

described in Article 1 (commencing with Section 16430), Chapter 3, Part 2, Division 4, Title 2 of the Government Code, or placed in a bank as provided in Chapter 4 (commencing with Section 16500), Part 2, Division 4, Title 2 of the Government Code, and handled in the same manner as money in the State Treasury.

56715. Any farm products bond issued pursuant to the former Article 6 (commencing with Section 55551) of Chapter 6 or Article 5 (commencing with Sections 56221) of Chapter 7 of this division in effect on January 1, 1978, for any licensee shall remain in effect until the expiration of the current license and liability on the bond shall continue until the statute of limitations has run on that bond.

No claim may be made against the products fund when a claim against a licensee is covered by such a bond.

Article 2. Farm Products Trust Fund Review Board

56731. The director may appoint a Farm Products Trust Fund Review Board consisting of five members to advise him on the administration of the products fund. The director shall appoint two members of the first review board for a term of one year, two members for a term of two years, and one member for a term of three years. Thereafter, all appointments shall be for a term of three years and no member shall be appointed to more than two three-year terms. Members of the review board shall include two producers, two persons licensed under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) of this division, who are not producers, and one public member.

56732. Members of the review board shall not receive any salary, but may receive per diem and be reimbursed for the necessary expenses in attending meetings of the board.

56733. The review board shall be advisory to the director on all matters pertaining to the products fund, including the annual budget and the revenue necessary to accomplish its functions.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The existing procedure requiring the bonding of processors and dealers is ineffective in protecting producers when processors or dealers face financial difficulties. In order to remedy this situation as

soon as possible, it is necessary that the provisions of this act become effective immediately.

CHAPTER 877

An act to amend Section 15606 of the Government Code, and to amend Sections 1610.8 and 1611.5 of, and to add Section 1611.6 to, the Revenue and Taxation Code, relating to county tax equalization hearing procedures.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 15606 of the Government Code is amended to read:

15606. The State Board of Equalization shall:

(a) Prescribe rules for its own government and for the transaction of its business.

(b) Keep a record of all its proceedings.

(c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by Section 1611.5 of the Revenue and Taxation Code.

(d) Prescribe and enforce the use of all forms for the assessment of property for taxation.

(e) Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt such instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain such uniformity.

(f) Subdivisions (c), (d), and (e) in this section shall include, but are not limited to, rules, regulations, instructions and forms relating to classifications of kinds of property and evaluation procedures. All rules and regulations adopted by the board pursuant to subdivision (c) shall be adopted, on and after January 1, 1968, pursuant to the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of this division.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c) of this section, governing the assessment or taxation of property. The Attorney General shall

represent the board in such action. The provisions of this section are mandatory.

SEC. 2. Section 1610.8 of the Revenue and Taxation Code is amended to read:

1610.8. After giving notice as prescribed by its rules, the county board shall equalize the assessment of property on the local roll by determining the full value of an individual property and by reducing or increasing an individual assessment as provided in this section. The full value of an individual property shall be determined without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

For the purpose of equalization, it is conclusively presumed that the average ratio of assessed value to full value in the county is not more than 115 percent of the latest preliminary or final ratio determined by the board pursuant to Article 1 (commencing with Section 1815) of Chapter 2 of this part.

The applicant for a reduction in an assessment on the local roll shall establish the full value of the property by independent evidence. The records of the assessor may be used as part of such evidence.

The county board shall make a determination of the full value of each parcel for which an application for equalization is made. After determining the full value of a parcel of property, the county board shall establish the assessed value of the property at the lower of:

(a) An amount equal to the property's full value, as determined by the county board, multiplied by the ratio established under Section 401.

(b) An amount equal to the property's full value, as determined by the county board, multiplied by 115 percent of the board's preliminary or final ratio for the county.

(c) An amount equal to the property's full value, as determined by the county board, multiplied by the ratio of assessed to full value of all property in the county, established without reference to the board's ratio for the county.

SEC. 3. Section 1611.5 of the Revenue and Taxation Code is amended to read:

1611.5. Written findings of fact of the county board shall be made if requested in writing by a party up to or at the commencement of the hearing. However, the party requesting findings may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons his request at this time the other party may orally or in writing renew the request thereby becoming responsible for any costs for the preparation of findings. A reasonable fee may be imposed by the county to cover the expense of preparing findings and conclusions, but shall not exceed ten dollars ($10) per parcel. The written findings of fact shall fairly disclose the board's determination of all material points raised by the party in his petition and at the hearing including a statement of the method or methods of valuation used in appraising the property.

At the hearing the final determinations by the board shall be supported by the weight of the evidence and, with regard to questions of value, such determinations shall be made without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

If written findings of fact have been requested, the board shall transmit such findings to the requesting party accompanied by a notice that any request for a transcript of the proceedings must be made within 60 days following the date of the final determination of the board.

SEC. 4. Section 1611.6 is added to the Revenue and Taxation Code, to read:

1611.6. If the county board fails to make findings upon request, or if findings made are found by a reviewing court to be so deficient that a remand to the county board is ordered to secure reasonable compliance with the elements of findings required by Section 1611.5, the action of the county board shall be deemed to be arbitrary and capricious within the meaning of Section 800 of the Government Code, so as to support an allowance of reasonable attorney's fees against the county for the services necessary to obtain proper findings.

CHAPTER 878

An act making an appropriation for parks and recreation, and in this connection amending and supplementing the Budget Act of 1977 (Ch. 219, Stats. 1977) by adding Sections 2.8G and 2.9G thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 2.8G is added to the Budget Act of 1977 (Ch. 219, Stats. 1977), to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

Sec. 2.8G. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1977–78, 1978–79, and 1979–80 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1977–78 fiscal year. All such appropriations shall be paid out of the

State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

LOCAL ASSISTANCE

RESOURCES

438G—For grants to counties, cities, cities and counties, and districts, as defined in Section 5096.84, pursuant to subdivision (a) of Section 5096.85, of the Public Resources Code, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 80,000

Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or both. Schedule:

Projects in Alameda County

(1) City of Oakland, San Leandro Bay Regional Shoreline 80,000

provided, that none of the funds which are appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are submitted to, and reviewed and approved by, the Secretary of the Resources Agency pursuant to Section 5096.89 of the Public Resources Code.

Reversions

440G—As of June 30, 1977, the unencumbered balance of the appropriation made by the following items shall revert to the unappropriated balance of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

(a) Item 412A (5), Budget Act of 1974, as added by Chapter 1522, Statutes of 1974, City of Oakland, Caldecott Park

SEC. 2. Section 2.9G is added to the Budget Act of 1977 (Ch. 219, Stats. 1977), to read:

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

Sec. 2.9G. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1977–78, 1978–79, and 1979–80 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning and working drawings shall be available for expenditure only during the 1977–78 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

LOCAL ASSISTANCE

RESOURCES

443.8G—For grants to counties, cities, and districts, as defined in Section 5096.123, pursuant to subdivision (a) of Section 5096.124, of the Public Resources Code, Department of Parks and Recreation, payable from the State, Urban, and Coastal Park Fund 1,923,885

Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or restoration, or any combination thereof.

Schedule:

	Projects in Contra Costa County	
(1)	Pleasant Hill Recreation and Park District, Brookwood Park	20,000
(2)	Pleasant Hill Recreation and Park District, Paso Nogal Park	40,000
	Projects in Los Angeles County	
(3)	City of Pasadena, Jefferson Community Recreation Center	331,050
	Projects in Marin County	
(4)	Town of Corte Madera, Corte Madera Recreation Center	21,232
(5)	City of Larkspur, Piper Park	31,503
(6)	County of Marin, Creekside Park	34,161
(7)	County of Marin, McInnis Park....	151,771
(8)	County of Marin, Paradise Beach	138,750
(9)	County of Marin, Stafford Lake ..	10,000

(10) Marinwood Community Services District, Big Rock Ridge	12,085
(11) City of Mill Valley, Boyle Park	34,327
(12) City of Novato, Pleasant Valley Neighborhood Park	10,175
(13) City of Novato, Marine Oaks Park	50,000
(14) City of Novato, Novato Municipal Pool	35,000
(15) Town of San Anselmo, Memorial Park	40,037
(16) City of San Rafael, Albert Park	115,807
(17) City of Sausalito, Marinship Park	16,173
Projects in Nevada County	
(18) County of Nevada, Bridgeport Bridge Restoration	20,000
Projects in Orange County	
(19) City of Anaheim, Sycamore and Dale Gymnasiums	546,058
Projects in San Luis Obispo County	
(20) City of Morro Bay, Del Mar Park, development only	35,638
Projects in Santa Clara County	
(21) City of Cupertino, Memorial Park	46,853
Projects in Sierra County	
(22) County of Sierra, Kentucky Mine	103,500
(23) County of Sierra, Sierra Valley Recreation Center	34,500
Projects in Ventura County	
(24) City of Port Hueneme, Hueneme Beach	45,265

provided, that none of the funds which are appropriated in this item for the projects set forth herein shall be available for encumbrance unless and until such projects are submitted to, and reviewed and approved by, the Director of Parks and Recreation pursuant to Section 5096.130 of the Public Resources Code. The director may not approve any such project unless the applicant for the project is proposed to be included, or is already included, in the priority plan required by subdivision (c) of Section 5096.127 and unless the project meets the requirements of Section 5096.124, as it relates to local assistance grants, Section 5096.130, and any other provision of the Nejedly-Hart State, Urban, and Coastal Park Bond Act of 1976 (commencing with Section 5096.111 of the Public Resources Code).

Reversions

443.95G—As of the effective date of the act that adds Section 2.9G to the Budget Act of 1977, the unencumbered balance of the appropriation made by the following item shall revert to the unappropriated balance of the State, Urban, and Coastal Park Fund.

(a) Item 443.8 (333), Budget Act of 1977, City of Morro Bay, Lila Keiser Park

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that this act may amend and supplement the Budget Act of 1977, which became operative on July 1, 1977, it is necessary that this act take effect immediately.

CHAPTER 879

An act to add and repeal Section 13110.7 of the Health and Safety Code, relating to burn and smoke inhalation injuries.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 13110.7 is added to the Health and Safety Code, to read:

13110.7. The State Fire Marshal shall establish and maintain a registry of burn injuries and deaths, and shall annually compile a statistical report of such injuries and deaths.

The director of every burn center which examines, treats, or admits a person with a burn or smoke inhalation injury or a person who suffers a burn related death shall file a report with the State Fire Marshal describing the injury or death at the end of the examination or treatment or at the time the patient is discharged from the burn center or at the time of the patient's death.

As used in this section, the term "burn center" means an intensive care unit in which there are specially trained physicians, nursing and supportive personnel and the necessary monitoring and therapeutic equipment needed to provide specialized medical and nursing care to burned patients.

The State Fire Marshal shall, in cooperation with the burn centers, develop the form to be used in reporting information to the State Fire Marshal under this section.

This section shall remain in effect only until January 1, 1981, and of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends this date.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no appropriation nor any obligation created for reimbursement of local agencies for costs incurred by them pursuant to this act.

CHAPTER 880

An act to amend Sections 3062 and 34715 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 3062 of the Vehicle Code is amended to read:

3062. (a) Except as otherwise provided in subdivision (b), in the event that a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or relocating an existing motor vehicle dealership, the franchisor shall in writing first notify the board and each franchisee in such line-make in the relevant market area of his intention to establish an additional dealership or to relocate an existing dealership within or into that market area. Within 15 days of receiving such notice or within 15

days after the end of any appeal procedure provided by the franchisor, any such franchisee may file with the board a protest to the establishing or relocating of the dealership. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting such dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

For the purposes of this section, the reopening in a relevant market area of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(b) With respect to the relocation of an existing dealership, subdivision (a) shall not apply to any relocation which is less than one mile from the existing location of the dealership and which is to a location within the same relevant market area within the same city where the existing dealership is located.

SEC. 2. Section 34715 of the Vehicle Code is amended to read:

34715. No new passenger vehicle, except a passenger vehicle certified by its manufacturer as having been manufactured prior to September 1, 1973, shall be sold or registered on and after September 1, 1973, unless it has a manufacturer's warranty that it is equipped with an appropriate energy-absorption system that meets the requirement for energy absorption systems set by the National Highway Traffic Safety Administration.

CHAPTER 881

An act to amend Section 54.3 of the Civil Code, relating to discrimination, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 54.3 of the Civil Code is amended to read:

54.3. Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of a totally or partially blind person, deaf person, or other physically disabled person under Sections 54, 54.1 and 54.2 is liable for each such offense for the actual damages and, in addition thereto, up to one thousand dollars ($1,000) in punitive damages, suffered by any

person denied any of the rights provided in Sections 54, 54.1, and 54.2.

SEC. 2. The Legislature declares that although the amount of recoverable punitive damages was not limited by Chapter 461 of the Statutes of 1968, some limitation thereon is desirable; however, the five hundred dollar ($500) limitation established by Chapter 972 of the Statutes of 1976 is not commensurate with the extent of the wrong that could be suffered by those intended to be protected. Accordingly, the provisions of this act establish limits more consistent with the scope of such potential wrong.

SEC. 3. The Legislature hereby declares that despite the holding in Marsh v. Edwards Theatres Circuit, Inc. (64 Cal. App. 3d 881) it has never been its intention to bar private causes of actions under Part 2.5 (commencing with Section 54) of Division 1 of the Civil Code. It is the intention of this act to establish reasonable limits of recovery with regard thereto.

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

Many physically disabled persons are presently being deprived of their civil rights because the enforcement provisions of Sections 54, 54.1, and 54.2 of the Civil Code are not adequate to insure such rights. This act will provide adequate enforcement and insure that the civil rights of physically disabled persons are being enforced and thus it is necessary that this act take effect at the earliest possible date.

CHAPTER 882

An act to amend Section 8371 of the Fish and Game Code, relating to striped bass.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 8371 of the Fish and Game Code is amended to read.

8371. (a) Except as otherwise provided in subdivision (b), it is unlawful to buy or sell striped bass or parts thereof, or to possess striped bass or parts thereof in any place where fish are bought, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place so selling or possessing fish.

(b) The provisions of subdivision (a) shall not apply to any of the following:

(1) Artificially propagated striped bass.

(2) Striped bass raised for sale for scientific study by either a

domestic fish breeder licensed pursuant to Article 3 (commencing with Section 6450) of Chapter 5 of Part 1 of this division, or a person who is licensed to engage in cultivating marine life.

CHAPTER 883

An act to amend Section 66452.6 of the Government Code, relating to subdivisions.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 12 months after its approval or conditional approval, or after such additional period of time as may be prescribed by local ordinance, not to exceed an additional 18 months. The period of time herein specified shall not include any period of time during which a water or sewer moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of such moratorium does not exceed five years.

Once such a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed; provided, however, that if such remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

The 1977 amendments to this section shall apply to a tentative map approved or conditionally approved prior to January 1, 1978, including any map which has expired during a moratorium which was imposed on or after April 1, 1977.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within such tentative map shall be filed without first processing a new tentative map.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which such map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of two years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

CHAPTER 884

An act to amend Section 285 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 285 of the Welfare and Institutions Code is amended to read:

285. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau, provided that no personally identifying information shall be transmitted regarding any proceeding under Section 300.

CHAPTER 885

An act to amend Sections 33704 and 33704.5 of, and to add Article 5.5 (commencing with Section 36961) to Chapter 2 of Part 3 of Division 15 of, the Food and Agricultural Code, relating to dairy products, and making an appropriation therefor.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977.]

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

SECTION 1. Section 33704 of the Food and Agricultural Code is amended to read:

33704. The provisions of Sections 33701, 33731, 33732, 33733, 33734, 33767, 33768, 33770, 33771, 33776, and 34593 do not apply to the manufacture of a milk drink if such product is manufactured from milk drink mix or sterilized milk drink mix, or to ice cream which is manufactured from ice cream mix, or to ice milk which is manufactured from ice milk mix, or to frozen yogurt dessert, which is manufactured from frozen yogurt mix, or to low-fat frozen yogurt dessert, which is manufactured from low-fat frozen yogurt mix, or to frozen dairy dessert, which is manufactured from frozen dairy dessert mix, if such products are manufactured in a freezing device from which such products are served directly in a semifrozen state, without packaging of any type, for consumption on the premises in or from rooms where food is served to the public.

All such mixes so used shall be secured from a licensed manufacturer of milk products. Frozen yogurt mix, low-fat frozen yogurt mix, and frozen dairy dessert mix shall be manufactured into a semifrozen state without adulteration and freezing device salvage

shall not be reused as a mix.

The director may by agreement with any approved milk inspection service, authorize such service to inspect and enforce requirements of this code applicable to the establishments covered by this section. Any such agreement shall provide that the approved inspection service shall collect the applicable license fee for such establishments as provided in Section 35221. The fees so collected shall be retained by the approved service to cover its cost of enforcement, provided that 25 percent of the fees collected shall be remitted to the director to cover his cost of administration.

SEC. 2. Section 33704.5 of the Food and Agricultural Code is amended to read:

33704.5. (a) Any person who manufactures and directly serves frozen yogurt dessert, low-fat frozen yogurt dessert, or frozen dairy dessert in the manner specified in Section 33704, shall post on the premises where such manufacture and service take place a sign which (1) states that frozen yogurt dessert or low-fat yogurt dessert, or both, or frozen dairy dessert, is served on such premises and (2) lists the ingredients in the dessert or desserts served.

(b) The sign required to be posted pursuant to subdivision (a) shall be placed in a conspicuous location, such as on a menu or other sales device, and shall be printed in a legible manner that is understandable under normal conditions by the person purchasing such desserts.

SEC. 3. Article 5.5 (commencing with Section 36961) is added to Chapter 2 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 5.5. Frozen Dairy Dessert

36961. Frozen dairy dessert is the food prepared by freezing while stirring a pasteurized mix containing skim milk, concentrated skim milk, nonfat dry milk, whole milk, or edible dried whey, or any combination of such ingredients, and any of the following optional ingredients: water; edible proteins derived from milk; fruit or fruit juices, or both; eggs and egg products; harmless flavor and color; nut meats; any safe and suitable stabilizers, emulsifiers, and nutritive sweetening agents and nonnutritive sweeteners approved by the director.

36962. Frozen dairy dessert shall meet all of the following:

(a) Contain less than 1 percent by weight of milk fat.

(b) Contain not less than 7 percent by weight of total milk solids, not including milk components which may be added as ingredients.

(c) Contain not less than 1.1 pounds nor more than 1.45 pounds of food solids per gallon. If microcrystalline cellulose is used, the quantity of food solids shall be not less than 1.1 pounds exclusive of the weight of the microcrystalline cellulose.

(d) Contain not more than 75,000 bacteria per gram when sold by the manufacturer or retailer.

(e) Weigh not less than 4.5 pounds per gallon.

36963. Frozen dairy dessert may only be sold in packages or containers of one-half gallons or less.

The package or container shall bear the name "Frozen Dairy Dessert" in bold face block letters in a color contrasting with the background color of the container. Each letter of the name shall be the same size, type, and color, and at least one-half as large as the largest letter, numeral, or symbol used on the container as part of a trade name or trademark. The container shall bear the product name on the principal display panel and shall bear the product name adjacent to each use of the trademark or trade symbol. The label shall state the name and address, including the zip code, of the manufacturer or distributor, preceded by the phrase "Manufactured by" or "Distributed by," as applicable.

The label on each package shall include a complete list of ingredients in descending order of predominance. If nonnutritive sweeteners are used as ingredients, the statement "contains nonnutritive sweeteners" shall immediately follow the name of the food in type of a size easily read under customary circumstances of purchase.

Label statements on each package shall comply with all applicable provisions of federal regulations relating to label statements concerning dietary properties of foods purporting to be, or represented for, special dietary uses.

36964. Only vitamins and minerals required in human nutrition may be added to frozen dairy dessert.

If the recommended daily dietary allowances have been established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, for any of such added vitamins and minerals, then each four fluid ounce serving of finished dessert shall provide not less than 8 percent nor more than 20 percent of the recommended daily dietary allowance for adults for such added vitamins and minerals. If any such vitamins or minerals are added to the product, the name of the food shall be immediately preceded or followed with the word "fortified" in type of the same style and at least one-half the size of the type used for the name "Frozen Dairy Dessert," required under Section 36963, and on the same contrasting background.

36965. Frozen dairy dessert mix is an unfrozen liquid product which is used in the manufacture of frozen dairy dessert. It shall comply with all requirements for frozen dairy dessert under this article.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 886

An act to add Chapter 4 (commencing with Section 495) to Division 1.5 of the Business and Professions Code, relating to licenses.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Chapter 4 (commencing with Section 495) is added to Division 1.5 of the Business and Professions Code, to read:

CHAPTER 4. PUBLIC REPROVALS

495. Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act which would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproval, public reproval and suspension, or public reproval and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 887

An act relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. The receipt by a school district of any local property tax revenue which was based on attendance prior to July 1, 1975, of pupils at regional occupational centers or programs, where such attendance included absences as described in subdivision (b) of Section 10953 of the Education Code, as amended by Chapter 277 of the Statutes of 1975, including absences of pupils who were not concurrently enrolled in a regular high school program, is hereby validated and confirmed and no action shall be taken, after the effective date of this act to recover or invalidate the receipt of all or part of such local property tax revenue on the ground that the attendance on which the tax rate was based includes absences of pupils not concurrently enrolled in a regular high school program.

This section shall apply only to the North Orange County Regional Occupational Program.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that attendance reporting requirements for the North Orange County Regional Occupational Program shall be clarified and that the program will not be required to return property tax revenues, it is necessary that this act take effect at the earliest possible time.

CHAPTER 888

An act to add Section 155.14 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 155.14 is added to the Revenue and Taxation Code, to read:

155.14. Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every person who at 12:01 a.m. on March 1 had a possessory interest in land owned by the state or federal government or who acquired such interest after such date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1 and the permit or other right to enter upon the land has been suspended without his fault, because of a misfortune or calamity; may apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the possessory interest immediately before and after the suspension. The damage to the interest must be shown in the application to be in excess of five thousand dollars ($5,000). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

Upon receiving a proper application, the assessor shall verify the amounts claimed on the application in the before and after condition. The assessor shall then compute a percentage relationship of loss and reduce the current assessed value by that percentage. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision

of the board regarding the value of the suspended permit shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the suspension.

If the amount of damage, as verified by the assessor, is not at least five thousand dollars ($5,000), no adjustment shall be made to said roll and no taxes shall be canceled or refunded. The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessments shall not be subject to review except by a court of competent jurisdiction.

The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, such reassessments shall not be subject to review except by a court of competent jurisdiction.

The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of its original assessment shall be applied to the amount of the reassessment determined in accordance with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(a) With respect to property on the secured roll a prorated portion of the tax due on the property as originally assessed at the rate established for property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for the balance of the fiscal year.

(b) With respect to property on the unsecured roll, he shall be liable for a prorated portion of the tax computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

As used in this section, "damage" means a possessory interest in land owned by the state or federal government wherein the permit

or other right to use the land has been suspended because of a misfortune or calamity such as the drought condition in California.

This section applies to all counties, whether operating under a charter or under the general laws of this state.

This section shall not be operative in any county unless Section 155.13 of this code is operative in such county.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it under this act.

SEC. 3. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

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

In order for the provisions of this act to be effective in the current year, it is necessary that this act take effect immediately.

CHAPTER 889

An act to amend Section 116.4 of, and to add Section 120.4 to, the Code of Civil Procedure, and to amend Section 1306 of the Penal Code, relating to courts.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 116.4 of the Code of Civil Procedure is amended to read:

116.4. (a) An action shall be commenced by the plaintiff's filing, in person or by mail with the judge or clerk of the small claims division, a claim under oath setting forth: the name and address of the defendant; the amount and the basis of the claim; and that the plaintiff has demanded payment and, in applicable cases, the possession of the property; that the defendant has failed or refused to pay, and where applicable, has refused to surrender the premises; and that the plaintiff understands that the judgment on his claim will be conclusive without right of appeal by him.

(b) The judge or clerk shall thereupon do either of the following:

(1) The judge or clerk shall (i) sign an order directing a defendant who resides within the county in which the action is filed, to appear on a hearing date not more than 40 days nor less than 10 days from the date of the order or, if the defendant resides outside of the county

in which the action is filed, to appear on a hearing date not more than 70 days nor less than 30 days from the date of the order, (ii) cause a copy of any claim and order to be mailed to him by any form of mail providing for a return receipt, or served upon him in the manner authorized by law for the service of a summons, and (iii) inform the plaintiff of a specified hearing date and direct him to appear on that date with witnesses and documents to prove his claim.

(2) The judge or clerk shall (i) cause a copy of any claim to be mailed to the defendant by any form of mail providing for a return receipt or served upon him in the manner authorized by law for the service of a summons, (ii) upon proof of service in accordance with subparagraph (i), sign an order setting a hearing date for a defendant who resides within the county in which the action is filed of not more than 40 days nor less than 10 days from the date of receipt of proof of service or, if the defendant resides outside of the county in which the action is filed, a hearing date of not more than 70 days nor less than 30 days from the date of receipt of service, (iii) cause a copy of the order setting the hearing date and directing the defendant to appear on such date to be served upon the defendant as provided in subparagraph (i), and (iv) cause a copy of the order setting the hearing date and directing the plaintiff to appear on such date with witnesses and documents to prove his claim to be served upon the plaintiff as provided in subparagraph (i). Service shall be deemed complete on the date of personal service, or on the date that the defendant signs the mail return receipt, or 10 days after the mailing required by Section 415.20, or upon the presentation of other competent evidence to the court, whichever is applicable. If, in the case of paragraph (1) of this subdivision, the service of the claim and order upon the defendant is not completed at least five days prior to the hearing date where the defendant resides within the county in which the action is brought, or at least 15 days prior to the hearing date where the defendant resides outside the county in which the action is brought, the court shall not proceed on the hearing date, unless the defendant personally appears and does not request a continuance. The plaintiff in such case may apply to the judge or the clerk for a new order setting a new date for the hearing, unless the defendant has personally appeared and requested a continuance, in which case no further service of the claim and order upon him shall be required, but the court must, upon the defendant's request, continue the date of the hearing for not less than 10 days.

SEC. 2. Section 116.4 of the Code of Civil Procedure is amended to read:

116.4. (a) An action shall be commenced by the plaintiff's filing, in person or by mail with the judge or clerk of the small claims division, a claim under oath setting forth: the name and address of the defendant; the amount and the basis of the claim; and that the plaintiff has demanded payment and, in applicable cases, the possession of the property; that the defendant has failed or refused to pay, and where applicable, has refused to surrender the premises;

and that the plaintiff understands that the judgment on his claim will be conclusive without right of appeal by him.

(b) The judge or clerk shall thereupon do either of the following:

(1) The judge or clerk shall (i) sign an order directing a defendant who resides within the county in which the action is filed, to appear on a hearing date not more than 40 days nor less than 10 days from the date of the order or, if the defendant resides outside of the county in which the action is filed, to appear on a hearing date not more than 70 days nor less than 30 days from the date of the order, (ii) cause a copy of the claim and order to be mailed to the defendant by any form of mail providing for a return receipt, or cause a copy to be delivered to defendant in person, and (iii) inform the plaintiff of a specified hearing date and direct him to appear on that date with witnesses and documents to prove his claim.

(2) The judge or clerk shall (i) cause a copy of any claim to be mailed to the defendant by any form of mail providing for a return receipt or cause a copy to be delivered to defendant in person, (ii) upon proof of service in accordance with subparagraph (i), sign an order setting a hearing date for a defendant who resides within the county in which the action is filed of not more than 40 days nor less than 10 days from the date of receipt of proof of service or, if the defendant resides outside of the county in which the action is filed, a hearing date of not more than 70 days nor less than 30 days from the date of receipt of service, (iii) cause a copy of the order setting the hearing date and directing the defendant to appear on such date to be served upon the defendant as provided in subparagraph (i), and (iv) cause a copy of the order setting the hearing date and directing the plaintiff to appear on such date with witnesses and documents to prove his claim to be served upon the plaintiff as provided in subparagraph (i).

Service by such methods shall be deemed complete on the date of personal service, or on the date that the defendant signs the mail return receipt, or upon the presentation of other competent evidence to the court, whichever is applicable. Service of a copy of the claim and order may also be made and shall be complete, as provided in subdivision (a) or (b) of Section 415.20 of this code, without requirement for attempted service by either of the methods above provided, and shall be complete as provided in Section 415.20. Service to be valid must be made within this state. If, in the case of paragraph (1) of this subdivision, the service of the claim and order upon the defendant is not completed at least five days prior to the hearing date where the defendant resides within the county in which the action is brought, or at least 15 days prior to the hearing date where the defendant resides outside the county in which the action is brought, unless the defendant personally appears and does not request a continuance, the court shall continue the date for the hearing for at least 10 days, and shall cause notice thereof by first-class mail to be served on any defendant who has been served but did not personally appear.

SEC. 3. Section 120.4 is added to the Code of Civil Procedure, to read:

120.4. The Judicial Council may provide by rule for such court attachés and employees, in addition to the number provided for by statute or by rule under Sections 121.3 and 121.8, as are necessary to implement the provisions of this chapter.

SEC. 3.5. Section 1306 of the Penal Code is amended to read:

1306. When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman has bound himself.

If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

A dismissal of the complaint, indictment or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

Within five days after the summary judgment becomes final, the district attorney or civil legal adviser of the board of supervisors shall demand immediate payment of the judgment. If the judgment remains unpaid for a period of 10 days after demand has been made, he shall forthwith cause a writ of execution to issue and be levied upon the property of the judgment debtor, and shall take any other steps necessary to collect the judgment.

The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 317 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 116.4 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill No. 317, that Section 116.4 of the Code of Civil Procedure, as amended by Section 1 of Assembly Bill No. 317, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 116.4 proposed by this bill. Therefore, if this bill and Assembly Bill No. 317 are both chaptered and become effective on or before January 1, 1978, both amend Section 116.4, and Assembly Bill No. 317 is chaptered before this bill, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 890

An act to amend Sections 13201.5 and 13352.5 of, and to add Section 23102.1 to, the Vehicle Code, and to add Article 5 (commencing with Section 19975.01) to Chapter 1 of Division 11 of the Welfare and Institutions Code, relating to public offenses.

[Approved by Governor September 16, 1977. Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 13201.5 of the Vehicle Code is amended to read:

13201.5. A court may suspend the privilege of any person to operate a motor vehicle, for a period not exceeding six months, upon conviction of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug.

SEC. 2. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) The department may not suspend or revoke, pursuant to subdivision (a), (c), or (e) of Section 13352 or any other provision of law, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person was driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, if the court has certified to the department that such person has consented to participate for at least one year, and is participating, in a manner satisfactory to the court, in a public or private program for the supervision of such persons and the treatment of their problem drinking or alcoholism pursuant to the provisions of Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of the Welfare and Institutions Code.

(b) All abstracts of record showing such a conviction that are forwarded to the department pursuant to Section 1803 shall indicate whether the person convicted has consented to participate, and is participating, in such a program.

SEC. 3. Section 23102.1 is added to the Vehicle Code, to read:

23102.1. Notwithstanding the requirements of subdivision (e) of Section 23102, the court may suspend execution of the sentence, as to the imprisonment of any person convicted for a second offense under Section 23102 if the person has consented to participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of the Welfare and Institutions Code and the court has referred the person to such a program. If at any time the person is found by the court to have failed to comply with the rules and regulations of the program or does not successfully complete the program, the court shall revoke such suspension or shall revoke and terminate probation, or both, and shall proceed in the manner provided in subdivision (c) of Section 1203.2 of the Penal Code.

SEC. 4. Article 5 (commencing with Section 19975.01) is added to Chapter 1 of Division 11 of the Welfare and Institutions Code, to read:

Article 5. Treatment for Drinking Drivers

19975.01. (a) As an alternative to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, as set forth in Section 13201.5 and subdivisions (a), (c), and (e) of Section 13352 of the Vehicle Code, a court may refrain from suspending such privilege and the Department of Motor Vehicles may not suspend or revoke such privilege because of such a conviction if the person convicted of that offense has consented to participate, for at least one year and in a manner satisfactory to the court, in a program for the supervision of such persons and for treatment of their problem drinking or alcoholism that is approved pursuant to this article.

(b) In determining whether to refer such a person to an approved program, the court may consider any relevant information about the person made available pursuant to a presentence investigation or other screening procedure. No such information may be furnished, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

(c) The court may refer persons only to approved programs. If an approved program does not exist in the county on the date of conviction of the person and if the county does not have an agreement pursuant to Section 19975.11 to allow referral of persons to approved programs located in another county, the provisions of Section 13352 of the Vehicle Code shall apply.

(d) The court may refer a person to an approved program, even though the person's privilege to operate a motor vehicle is suspended or revoked, if the period of suspension or revocation will terminate within six months after the person's commencement of participation in the program.

(e) As used in this article, "program" means all the elements of the program described in the amendment to the county alcoholism program budget submitted pursuant to subdivision (c) of Section 19975.07.

19975.02. (a) In utilizing any such program, the court shall require periodic reports concerning the performance of each person referred to and participating in a program and the immediate report

of any failure of any such person to comply with the program's rules and regulations. If, at any time after referral to or while participating in a program, a participant fails to comply with the rules and regulations of the program, the court, upon finding such fact, shall immediately suspend, or order suspension or revocation of, the privilege of such person to operate a motor vehicle for the period prescribed by law.

(b) If, at any time after referral to or while participating in a program, a participant refuses, for any reason, to consent to a chemical test that he or she is required to submit to pursuant to Section 13353 of the Vehicle Code, his or her participation in the program shall be terminated and the Department of Motor Vehicles shall immediately suspend or revoke his or her privilege to operate a motor vehicle for the period prescribed in Section 13352 of the Vehicle Code, according to the offense for which he or she was convicted immediately prior to referral to the program. Such period of suspension or revocation shall be in addition to the period of suspension imposed by the Department of Motor Vehicles pursuant to Section 13353 of the Vehicle Code.

(c) In the event the office withdraws approval of a program, the Department of Motor Vehicles shall suspend or revoke, for the period prescribed by law, the privilege to operate a motor vehicle of every person previously participating in the program who does not commence participation, in a manner satisfactory to the court, in an approved program within 21 days after the date approval was withdrawn from the previous program.

(d) In addition to any other condition of probation, the court shall have the discretion to determine whether any person desiring to participate in a program shall be required to furnish proof of ability to respond in damages, as defined in Section 16430 of the Vehicle Code, as a condition to participation in the program.

19975.03. The court, upon convicting a person of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, shall transfer jurisdiction of all postjudgment matters in the case to the court in the county where such person resides for further proceedings pursuant to this article if the court finds that such person has consented to participate in the an approved program in, or closer to, his county of residence in a manner satisfactory to the court. The office shall establish reporting procedures for transfers of jurisdiction pursuant to this section in order to assure effective implementation of this section. Upon receiving notice that a person has not commenced participation, in a manner satisfactory to the court to which jurisdiction has been transferred, in an approved program within 21 days after the date of conviction, excluding any days of imprisonment served by such person pursuant to sentence imposed for conviction for such offense, the Department of Motor Vehicles shall suspend or revoke the person's privilege to operate a motor vehicle for the period prescribed by law.

19975.04. No person may be admitted or readmitted into a program for the supervision and treatment of problem drinking or alcoholism pursuant to this article until four years after such person ceases his or her prior participation in such a program. The four-year period shall commence either on the date the court orders the suspension or revocation of such person's privilege to operate a motor vehicle pursuant to Section 19975.02 or on the date such person successfully completes the program, whichever is later. With respect to any person arrested for the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug subsequent to the commencement of a four-year period, such person's eligibility to participate in the program again shall be determined on the basis of the date on which such person is alleged to have committed that offense.

19975.05. (a) The office shall have sole authority to approve programs pursuant to this article. No program, regardless of how it is funded, may be approved unless it meets the standards established by the office, which shall include, but need not be limited to, the following:

(1) Each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program. Such interviews shall be conducted individually with each person being supervised and shall occur at times during which any group to which such person is assigned is not participating in any other activities of the program.

(2) The office shall approve all fee schedules for such programs and shall require that each program make provision for persons who cannot afford such fees in order to enable such persons to participate. The office shall ensure that such fees are set at amounts which will enable programs to provide adequately for the services required pursuant to this article. Such fees shall be used only for the purposes set forth in this article. The office may not approve any program if the office finds that any element of the administration of the program does not assure the fiscal integrity of the program.

(3) Each program shall include a variety of treatment services for problem drinkers and alcoholics or shall have the capability of referring such persons to, and regularly and closely supervising such persons while in, appropriate treatment services for their problem drinking or alcoholism. In addition to the requirements of paragraph (1) of this subdivision, the office shall prescribe in its standards what other services the program shall provide its participants, which services may include lectures, classes, group discussions, individual counseling in addition to the interviews required by paragraph (1), or any combination thereof. However, any class or group discussion, other than lectures, shall not exceed 15 persons at any one meeting.

(4) In order to assure effective treatment and supervision in any program, the office shall require, whenever appropriate, that the program provides services to ethnic minorities, women, youth, or

any other group that has particular needs relating to the program.

(5) The goal of each program shall be to enable the person participating in the program to address successfully his or her alcohol abuse or alcoholism problem, to eliminate any dependence on alcoholic beverages, and to protect the public's health and safety upon the highways.

(b) Each program may be an extension of an existing program or a new program. No such program may be approved, however, unless the county complies with the requirements of Section 19946.

(c) The office shall adopt standards, which it may issue in the form of regulations, in addition to any of the standards set forth in this section in order to assure effective implementation of the procedure established by this article.

19975.06. (a) No person may participate in any program that has not been approved or reapproved by the office pursuant to the standards established pursuant to this article. The office shall reapprove existing programs in the demonstration counties that were selected pursuant to Section 13201.5 of the Vehicle Code, as added by Chapter 1133 of the Statutes of 1975, if such programs meet the standards established pursuant to this article; and no person may participate in any such program until it is reapproved pursuant to this article.

(b) The office may charge a reasonable fee for approval or reapproval of a program. The fee shall be set at a level sufficient to cover all administrative costs of the program incurred by the office and the Department of Motor Vehicles. All such fees received by the office shall be deposited in the General Fund for reimbursing the office and the Department of Motor Vehicles their costs incurred in approving or reapproving programs and their administrative costs, when appropriated for that purpose by the Legislature.

19975.07. (a) The Legislature recognizes that were the office to be charged with monitoring closely the programs established pursuant to this article, it would require significantly increased staff. The Legislature also recognizes that such monitoring by state agencies often is ineffective and misleads the Legislature and public into believing that the state can and has adequately fulfilled such responsibilities. The Legislature also recognizes that the governing body and responsible county staff are much closer to, and more informed about, the daily activities of the programs approved pursuant to this article and about the impact that failure of such programs might have for the citizens of their county. The Legislature also recognizes that if a program is deficient, clients may receive inadequate supervision and treatment and may therefore remain a danger to the public health and safety and a burden to themselves, their family, and the community. Therefore, the Legislature places the major responsibility for assuring programmatic and fiscal integrity of each program with the governing body of each county utilizing a program pursuant to this article.

(b) The governing body shall delegate to the alcoholism

administrator, pursuant to the provisions of Article 2 (commencing with Section 19920), the responsibility to assure compliance with the standards of the office by any program designated by the county for operation therein and approved by the office. In any county in which such an administrator has not been appointed, the head of the health-related agency or department designated pursuant to Section 19923 shall assume the duties of the alcoholism administrator and administer the program pursuant to the provisions of this article.

(c) The alcoholism administrator shall submit to the governing body a description of each program to be utilized in the county in the form of a proposed amendment to the county alcoholism program budget required by Article 3 (commencing with Section 19940). Prior to such submission, the advisory board shall review the proposal, and its comments shall be included in the submission to the governing body. If the governing body approves the amendment, it shall submit the amendment to the office for approval. The office shall approve the amendment if it finds that the program meets the requirements of this article. The office may approve a program on a provisional basis.

(d) In addition to the provisions of Section 19927, no person may serve as a member of the advisory board who is an employee, director, or member of any advisory body, or holds any similar position or title on a compensated or noncompensated basis in any program which seeks or possesses approval pursuant to this article.

19975.08. (a) The alcoholism administrator, or the advisory board acting through the alcoholism administrator, shall inform the governing body immediately if it is determined that any program is not meeting the standards established by the office. The governing body shall immediately notify the office, which, if it finds that such program does not meet such standards or cannot meet such standards within 30 days of notice by the office, shall withdraw approval of the program.

(b) If the office modifies any of its standards, the alcoholism administrator shall assure within a time period established by the office that each program within his or her county has met such standards. The office shall withdraw approval of any program that does not at any time meet the standards established by the office.

(c) The alcoholism administrator, chief probation officer, the director, or their authorized representatives may enter, in a nondisruptive manner, any class, lecture, group discussion, or any other program element to observe such activities.

(d) Within its staff and time limitations, the office may require reapproval of all programs on a periodic basis commencing January 1, 1979, and may charge a fee pursuant to Section 19975.06 for such reapproval.

(e) Notwithstanding the provisions of subdivision (a) of Section 19975.07, the office may audit, or contract for the auditing of, any approved program.

19975.09. (a) The office shall authorize each alcoholism

administrator to retain, in an amount to be specified by the office, a portion of the fees charged for participation in the program that is sufficient to reimburse the county for the costs and expenses which the administrator reasonably incurs in discharging his or her duties pursuant to this article.

(b) A county may not use for any purpose set forth in this article any funds allocated to it by the office pursuant to Article 4 (commencing with Section 19960). The governing body may authorize the use of any other funds for any such purpose.

19975.10. As an element of the program, the probation department may provide any of the face-to-face interviews required pursuant to paragraph (1) of subdivision (a) of Section 19975.05 and may supplement any of the other services required to be provided by a program. The participation of the probation department shall be described in the amendment to the county alcoholism program budget.

19975.11. The Legislature encourages all counties to utilize the procedure described in this article, but recognizes that it is not feasible for every county to establish its own programs. Accordingly, two or more counties may jointly establish programs pursuant to subdivision (b) of Section 19920 of this code or Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or may furnish by contract such program services to residents of another county pursuant to Section 19933 of this code. The governing body of the county in which the program is located shall be responsible for assuring the integrity of the program as required pursuant to subdivision (a) of Section 19975.07.

19975.12. The office, in cooperation with the Department of Motor Vehicles, shall establish uniform statewide reporting procedures and forms for the submission of any appropriate documents or information from governing bodies, alcoholism administrators, administrators of programs, and program participants to assure effective implementation of this article.

19975.13. The Legislature finds and declares that, in order to provide for orderly and effective implementation of this article, to prevent the courts and programs in each county from being overburdened at the commencement of the implementation of this article, and to protect the public health and safety, this article shall apply only on a prospective basis. Therefore, this article shall apply only to persons either (a) who are alleged to have committed the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug on or after January 1, 1978, and are subsequently convicted, for that offense or (b) who are alleged to have committed that offense on or after the date when a program, to which such a person may be referred by the court upon conviction for that offense, has been approved by the office, and are subsequently convicted for that offense, whichever date is later.

SEC. 5. The Office of Alcoholism and the Department of Motor

Vehicles jointly shall submit a report to the Legislature on December 1, 1978, regarding the implementation of this act. The report shall include, but not be limited to, an evaluation of the four-county demonstration program established pursuant to Chapter 1133 of the Statutes of 1975, the relationship of first offender programs to the program authorized under this act, and any relevant recommendations.

SEC. 6. This act does not involve any costs mandated by the state, as defined in Section 2207 of the Revenue and Taxation Code, because this act does not require any county to establish a program pursuant to this act and because this act authorizes a revenue source that counties may use for reimbursement of costs which they incur in carrying out programs pursuant to this act that they wish to establish.

CHAPTER 891

An act to add Section 11180.5 to the Government Code, relating to criminal investigations.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 11180.5 is added to the Government Code, to read:

11180.5. At the request of a prosecuting attorney or the Attorney General, any state agency, bureau, or department may assist in conducting an investigation of any unlawful activity which involves matters within or reasonably related to the jurisdiction of such agency, bureau, or department. Such an investigation may be made in cooperation with the prosecuting attorney or the Attorney General.

CHAPTER 892

An act to add and repeal Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to domestic violence, and making an appropriation therefor.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Chapter 5 (commencing with Section 18290) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5. DOMESTIC VIOLENCE PILOT PROJECT CENTER

18290. The Legislature hereby finds and declares that there is a present and growing need to develop innovative strategies and services which will ameliorate and reduce the trauma of domestic violence. There are hundreds of thousands of persons in this state who are regularly beaten. In many such cases, the acts of domestic violence lead to the death of one of the involved parties. Victims of domestic violence come from all socioeconomic classes and ethnic groups, though it is the poor who suffer most from marital violence, since they have no immediate access to private counseling and shelter for themselves and their children. Children, even when they are not physically assaulted, very often suffer deep and lasting emotional effects, and it is most often the children of those parents who commit domestic violence that continue the cycle and abuse their spouses.

The Legislature further finds and declares that there is a high incidence of deaths and injuries sustained by law enforcement officers in the handling of domestic disturbances. Police arrests for domestic violence are low, and victims are reluctant to press charges or make citizens arrests. Furthermore, instances of domestic violence are considered to be the single most unreported crime in the state.

It is the intention of the Legislature to begin to explore and determine ways of achieving reductions in serious and fatal injuries to the victims of domestic violence and begin to clarify the problems, causes, and cures of domestic violence. In order to achieve these results, it is the intention of the Legislature that the state shall initiate demonstration projects in several areas throughout the state for the purpose of aiding victims of domestic violence by providing them a place to escape the destructive environment. It is further the intent of the Legislature that the projects receive sufficient state funds to serve as seed money or matching money to assist the centers in obtaining further support from other public or private sources.

18291. This chapter shall be implemented in at least four different areas throughout the state, on a demonstration basis as specified in Section 18292, during the period from January 1, 1978, through June 30, 1980. The State Department of Health shall choose the projects to be funded no later than April 1, 1978, from those which apply and are determined to be eligible for participation.

18292. (a) The Director of Health, in consultation with individuals and groups with experience and knowledge of the problems of domestic violence, shall contract with public or private nonprofit agencies to establish not less than four nor more than six project centers for victims of domestic violence.

(b) At least one center shall be established in northern California, at least one center shall be established in central California, and at least one center shall be established in southern California. If more than one center is established in an area, at least one of the centers shall be located in a rural area and at least one of the centers shall be located in an urban area.

18293. In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate their ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources which may be used to augment any state funds appropriated for the purposes of this chapter. Each center shall make every attempt to qualify the center for any available federal funding.

State funds provided to establish centers shall be utilized to expand the center's program and shall not be expended to reduce the fiscal support from other public or private sources.

18294. Such centers shall be designed to provide the following basic services to victims of domestic violence and their children:

(a) Shelter on a 24 hour-a-day, seven days a week basis;

(b) 24 hours-a-day, seven days a week switchboard for crisis calls;

(c) Temporary housing and food facilities;

(d) Psychological support and peer counseling;

(e) Referrals to existing services in the community and followup on the outcome of the referrals;

(f) A day program or drop-in center to assist victims of domestic violence who have not yet made the decision to leave their homes, or who have found other shelter but who have a need for support services;

(g) Arrangements for school age children to continue their education during their stay at the center; and

(h) Emergency transportation to the shelter, and when appropriate, arrangements with local law enforcement for assistance in providing such transportation.

18295. In addition to the services required in Section 18294, to the extent possible, and in conjunction with already existing community services, the centers shall provide a method of obtaining the following services for the victims of domestic violence:

(a) Medical care;

(b) Legal assistance;

(c) Psychological support and counseling; and

(d) Information regarding reeducation, marriage and family counseling, job counseling and training programs, housing referrals and other available social services.

18296. The staff of the centers shall work with social service agencies, schools, and law enforcement agencies in an advocacy capacity for those served by the centers.

18297. The staff of each center shall attempt to achieve community support and acceptance of the center by advocating the center to community representatives and groups within the community. Volunteers shall be trained and used to maximum

capacity in the delivery of services.

18298. Inasmuch as the centers are to serve a variety of cultural backgrounds, to the extent feasible a portion of the program's personnel shall be bilingual. An effort shall be made to recruit formerly battered spouses as staff members.

18299. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the State Department of Health.

18300. (a) The State Department of Health, in consultation with the centers funded under this chapter, shall design a standard intake and followup document to be used by the centers on all persons appearing for services. Such document shall include, but not be limited to, the following information:

(1) Socioeconomic data;

(2) Previous calls for help;

(3) Number of return visits;

(4) A description of the episode of domestic violence and probable causes;

(5) Use of drugs and alcohol;

(6) Source of referral;

(7) Services provided by the center;

(8) Length of stay;

(9) History of domestic violence in family;

(10) Need for followup services; and

(11) Followup services provided by the center.

(b) The information collected on each individual served by the center shall be confidential and shall be released only upon the persons written authorization.

18301. A quarterly report shall be prepared by each center for submission to the State Department of Health. Such report shall include, but not be limited to, the total number of persons requesting services of the centers, the number of persons served in the center by each type of service provided, and a description of the social and economic characteristics of persons receiving services by type of service provided.

18302. On or before October 1, 1979, each center shall prepare and submit to the State Department of Health a final project report, in accordance with criteria established by the Department of Health. The report shall describe the project's effectiveness in carrying out the provisions of Sections 18294 to 18298, inclusive. Such report shall also describe the effectiveness of the center in reducing the incidence of domestic violence to those victims served by the center, and shall describe the costs associated with each type of service provided. The report shall identify and describe the range and type of services required by victims of domestic violence and shall indicate which of these services are being provided by existing agencies within the area and which are not. The report shall identify which existing agency, if any, would be suitable as a domestic violence center if the program were to be continued.

18303. The final project reports submitted by the centers shall

serve as the basis for a report to be filed by the State Department of Health to the Legislature on or before January 1, 1980. This report shall summarize the reports submitted by the centers, after validating the data included in such reports, and shall make recommendations regarding the extent to which the centers assisted the victims in resolving the problems associated with domestic violence, the need for additional legislation, funding, data collection, and any other actions which can be taken by the state to prevent, reduce, or alleviate the effects of domestic violence.

SEC. 2. The sum of two hundred eighty thousand dollars ($280,000) is hereby appropriated from the General Fund to the State Department of Health for use during the period January 1, 1978, through June 30, 1980, to be allocated as follows:

(a) Thirty thousand dollars ($30,000) for professional staff in the State Department of Health in order to effectively implement the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code; and

(b) Two hundred fifty thousand dollars ($250,000) to fund four to six pilot projects, pursuant to such provisions, commencing April 1, 1978.

SEC. 3. This act shall remain in effect only until June 30, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1980, deletes or extends such date.

CHAPTER 893

An act to amend Section 27471 of the Government Code, relating to embalming fees.

[Approved by Governor September 16, 1977 Filed with Secretary of State September 17, 1977]

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

SECTION 1. Section 27471 of the Government Code is amended to read:

27471. Whenever the coroner takes custody of a dead body pursuant to law, he shall make a reasonable attempt to locate the family within 24 hours. At the end of 24 hours he may embalm the body, or authorize the embalming by a mortician. If the embalming has been requested by the family or by a person authorized to take charge of the body prior to such embalming, and such family or person has agreed to accept the expense, the coroner may charge and collect up to one hundred dollars ($100). Any family, however, which has not been located within 24 hours of his custody of the body, shall not be charged more than thirty dollars ($30).

The board of supervisors shall by ordinance establish the fee to be charged pursuant to this section.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 894

An act to amend Sections 23400, 23401, 41301, 41332, 41335, 41718, 41762, 41790, 41800, 41830, 41840, 41841, 41950, 42238, 42239, 43001, 51225, 52168, 52170, 52177, 52179, and 60246 of, to add Sections 2507.7, 14002.5, 14004.5, 14006, 23401.5, 23402.5, 23402.6, 41718.5, 41761.3, 41761.5, 42238, 42238.5, 42241.3, 43001.5, 52169, 52171.5, and 52171.6 to repeal Sections 41716, 41716.5, 42238, 42244.2, 42244.3, 42244.4, 42244.5, 42244.6, 51225.5, 52169, and 52179, to add Chapter 5.5 (commencing with Section 42000) to, Chapter 5.7 (commencing with Section 42050), Article 4 (commencing with Section 42280) to Chapter 7 of, Chapter 8.5 (commencing with Section 42500), and Chapter 8.7 (commencing with Section 42520) to, Part 24 of, to add Article 2.5 (commencing with Section 51215) to Chapter 2 of, and Chapter 6 (commencing with Section 52000) to Part 28 of, and to add Chapter 1 (commencing with Section 54000) and Chapter 1.5 (commencing with Section 54060) to Part 29 of, and to repeal Chapter 6 (commencing with Section 52000) of, and Article 1 (commencing with Section 52100) of Chapter 7 of, Part 28 of, and to repeal Chapter 1 (commencing with Section 54000) of Part 29 of, the Education Code, and to repeal Section 16130 of the Government Code, to amend Section 71 of Chapter 323 of the Statutes of 1976, and to repeal Sections 84 and 85.5 of Chapter 323 of, Sections 1 and 9 of Chapter 856 of, and Section 36 of Chapter 991 of, the Statutes of 1976, relating to financial support for the public schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1977. Filed with Secretary of State September 17, 1977]

I am deleting the $30,000,000 appropriation contained in Section 77 of Assembly Bill No. 65 for the proposed new "variable cost" program

The criteria and methodology for determining eligibility and the justification for funding under this concept needs further analysis and testing The Superintendent of Public Instruction has contracted with the Education Commission of the States through available federal funds to conduct a study of "Variable Costs" to be completed by July 1978 I am deleting the appropriation pending the completion of this study

In Section 54058, I am eliminating $7,700,000 from subdivision (a); $7,700,000 from the Program Maintenance portion of subdivision (b); and reducing by $7,700,000 the Program Maintenance portion of subdivision (c). These reductions are being made to avoid a double-funding which resulted when Section 85 of Chapter 323, Statutes of 1976 was not repealed by this bill This corrects that technical error in the drafting of the bill

With these reductions, I approve Assembly Bill No 65

EDMUND G BROWN JR., Governor

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

SECTION 1. Section 2507.7 is added to the Education Code, to read:

2507.7. (a) For the 1978–79 fiscal year and each fiscal year thereafter, the maximum tax rate for the county superintendent of schools authorized pursuant to Sections 2500 and 2506 and the revenue limit and maximum tax rate authorized pursuant to Section 2502 may be increased by amounts equal to the difference between the 1976–77 fiscal year contribution percentage and the current year contribution percentage, pursuant to Section 23400, times the total of the salaries estimated in the current year upon which members' contributions are based.

(b) If at the end of any fiscal year the actual expenditures specified in subdivision (a) are less than the revenue derived from the increase in maximum tax rate, provided in subdivision (a) for that fiscal year the difference shall be used in the following fiscal year exclusively for expenditures required pursuant to Section 23400.

(c) If at the end of any fiscal year the actual expenditures specified in subdivision (a) exceed the revenue derived from the increase in maximum tax rate, provided in subdivision (a) for that fiscal year, the difference may be added to the increase in maximum tax rate authorized pursuant to this section in the following fiscal year.

SEC. 2. Section 14002.5 is added to the Education Code, to read:

14002.5. In making the computation prescribed by subdivision (b) of Section 14002, the Controller shall cumulatively increase the seventy-nine cents ($0.79) amount prescribed by that subdivision by 6 percent annually, and shall cumulatively increase the twenty-one dollar and fifty cents ($21.50) amount prescribed by that subdivision by 6 percent annually.

SEC. 3. Section 14004.5 is added to the Education Code, to read:

14004.5. (a) In addition to all other funds appropriated and transferred to Section A of the State School Fund, the Controller shall annually transfer from the General Fund to Section A of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all the county superintendents of schools in the state as certified by the Superintendent of Public Instruction, of twenty-one dollars and eighty cents ($21.80) for fiscal year 1978–79 and thirty-four dollars and fifty-one cents ($34.51) for fiscal year 1979–80, for apportionments allowed pursuant to Article 5 (commencing with Section 56300) of Chapter 2 of Part 30.

(b) Funds appropriated pursuant to this section and funds available pursuant to Section 41301 shall be used for Part 30 (commencing with Section 56000) including the Master Plan for

Special Education (Chapter 2 (commencing with Section 56300) of Part 30). For the 1977–78 fiscal year, the superintendent shall adjust all special education allowances not previously adjusted pursuant to Chapter 219 of the Statutes of 1977 by 6 percent.

It is the intent of the Legislature that pursuant to the provisions of Assembly Bill No. 1250 of the 1977–78 Regular Session, and subject to future budget acts, the funds provided in subdivision (a) for the purpose of providing special education services pursuant to Section 56300 shall be sixty-three dollars and fifty-six cents ($63.56) for the 1980–81 fiscal year and one hundred thirteen dollars and eighty-two cents ($113.82) for the 1981–82 fiscal year.

SEC. 4. Section 14006 is added to the Education Code, to read:

14006. In addition to the sums transferred from the General Fund to Section A of the State School Fund pursuant to Section 14002, the State Controller shall also transfer to Section A of the State School Fund for apportionment during the fiscal year, a total amount per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts, and to all county superintendents of schools in the state, as certified by the Superintendent of Public Instruction, as follows:

Fiscal years	Amount
1978–79 and 1979–80	$29.19
1980–81	34.89
1981–82 and thereafter	40.21

SEC. 6. Section 23400 of the Education Code is amended to read:

23400. The school districts and other employing agencies in the state shall contribute monthly to the Teachers' Retirement Fund the following percentages of the total of the salaries upon which members' contributions are based:

(a) For the fiscal year ending June 30, 1978	7.6%
(b) For the fiscal year ending June 30, 1979	8.0%
(c) For the fiscal year ending June 30, 1980	8.5%
(d) For the fiscal year ending June 30, 1981	9.0%
(e) For the fiscal year ending June 30, 1982	9.5%
(f) For the fiscal year ending June 30, 1983, and fiscal years thereafter	10.0%

In a local district only the salaries of those members who are not contributing to the local system shall be included in the preceding computations of total contributions by the district.

SEC. 7. Section 23401 of the Education Code is amended to read:

23401. District taxes may be levied and collected annually pursuant to this section by the respective districts at the same time and in the same manner as other district taxes are levied and collected. The tax shall be in addition to any other district tax now or hereafter authorized by law, and shall not be considered in fixing maximum rates of taxes for school district or community college district purposes.

Such tax is for the purpose of providing funds to make contributions to the Teachers' Retirement Fund required of community college districts under Section 23400 and to local retirement systems, and the rate shall be such as necessary to raise the amount of difference between the estimated amount of contribution needed and the estimated amount of foundation support provided by Section 84725.

The tax rate provided by this section shall not exceed five cents ($0.05) per each one hundred dollars ($100) of the assessed value of property within a community college district.

If at the end of any school year there remains an unencumbered balance derived from the revenue and the increase in tax rate provided by this section, such balance shall be used exclusively in the following school year for the expenditures of the district during the year required by Section 23400.

SEC. 8. Section 23401.5 is added to the Education Code, to read:

23401.5. (a) The county superintendent shall calculate a teachers' retirement revenue limit adjustment in the following manner:

(1) Calculate the district contribution under Section 23400 plus any contributions to a local retirement system less any federal or state categorical aid for State Teachers' Retirement System purposes.

(2) Deduct state aid apportioned under Section 42054, 42055, and 42056.

(3) Deduct the product of the quantity 1 minus the factor determined pursuant to subdivision (b) of Section 42238 times the difference between the computation pursuant to paragraph (2) for the current fiscal year and such computation for the prior fiscal year.

(4) The resulting local share is the teachers' retirement revenue limit adjustment.

(b) If, in any year, the salary schedule increases provided for employees who are members of the State Teachers' Retirement System exceeds the percentage increase in the foundation program in Section 41718, the revenue limit adjustment for teachers' retirement shall be reduced by the amount that the increased retirement contribution is attributable to the salary schedule increase in excess of the foundation program. Districts whose revenue limit adjustment for teachers' retirement is reduced shall report at the annual budget hearing the amount of the reduction and its impact on the district's revenue limit.

The Superintendent of Public Instruction shall prescribe procedures necessary to carry out the provisions of this section.

SEC. 9. Section 23402.5 is added to the Education Code, to read:

23402.5. The State Controller shall monthly transfer from the General Fund to the Teachers' Retirement Fund the amount certified by the system pursuant to Section 23402.6.

SEC. 10. Section 23402.6 is added to the Education Code, to read:

23402.6. The system shall certify to the State Controller for

transfer pursuant to Section 23402.5 the following percentages of the total of the salaries upon which members' contributions are based:

(a) For the fiscal year ending June 30, 1980 ..... 1.0%
(b) For the fiscal year ending June 30, 1981.. ..... 1.5%
(c) For the fiscal year ending June 30, 1982 ..... 2.0%
(d) For the fiscal year ending June 30, 1982 ..... 2.5%
(e) For each fiscal year after June 30, 1983 ..... 3.0%

SEC. 11. Section 41301 of the Education Code is amended to read:

41301. The amount transferred to Section A of the State School Fund pursuant to subdivision (b) of Section 14002 and Section 14004 shall be expended in accordance with the following schedule:

(a) Twenty-one dollars and fifty cents ($21.50) multiplied by the total average daily attendance credited during the preceding school year to elementary school districts which during the preceding school year had less than 901 units of average daily attendance, to high school districts which during the preceding school year had less than 301 units of average daily attendance, and to unified districts which during the preceding school year had less than 1,501 units of average daily attendance, but not to exceed an amount equal to seventy-nine cents ($0.79) multiplied by the average daily attendance credited during the preceding fiscal year to all elementary, high, and unified school districts and to all county superintendents of schools in the state, for allowance to county school service funds pursuant to subdivision (a) of Section 14054.

Commencing with the 1977–78 fiscal year, the amounts in this subdivision shall be increased annually by the same percentage prescribed by Section 14002.5.

(b) Eleven dollars and forty-one cents ($11.41) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, during the preceding school year for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of this part.

(c) Twenty-nine dollars and twenty-seven cents ($29.27) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state, during the preceding school year, for the purposes of Article 3 (commencing with Section 56030) of Chapter 1, Chapter 3 (commencing with Section 56500), Chapter 5 (commencing with Section 56700) of Part 30 of Division 4 of this title, and Sections 41863, 41866, 41892, and 41897.

(d) Three dollars and forty-four cents ($3.44) multiplied by the total average daily attendance credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state during the preceding school year for allowances to county school service funds pursuant to subdivision (b) of Section 14054.

Commencing with the 1977–78 fiscal year, the amount in this subdivision shall be increased by the same percentage allowed in Section 14002.5.

(e) Three dollars and eighteen cents ($3.18) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for allowances to school districts for the purposes of Section 52205.

(f) Two hundred eighty dollars and sixty-four cents ($280.64) multiplied by the average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state during the preceding school year for basic aid, equalization aid, allowances for adults, and allowances to the county school tuition funds to be apportioned on account of average daily attendance. The amount expended pursuant to this subdivision shall be annually revised to reflect the adjustment prescribed by subdivision (e) of Section 14002.

(g) Sixteen dollars and forty-eight cents ($16.48) multiplied by the average daily attendance during the preceding school year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state for purposes of Chapter 4 (commencing with Section 56600) of Part 30 of Division 4 of this title.

SEC. 12. Section 41332 of the Education Code is amended to read:

41332. The Superintendent of Public Instruction shall on or before February 20th of each year apportion to each elementary school district, high school district, community college district, county school service fund, and county school tuition fund the total amounts allowed to them under Sections 14054, 14057, 14058, 41790, 41800, 41810, 41811, 41840, 41841, 41863, 41866, 41882, 41884, 41885, 41886, 41888, 41950, 41970, 41971, 42004, 42005, 42054, 42055, 42056, and 52205, whichever are in effect. This apportionment shall be called the first principal apportionment.

SEC. 13. Section 41335 of the Education Code is amended to read:

41335. The Superintendent of Public Instruction shall on or before June 25th of each year apportion to each elementary school district, high school district, county school service fund, and county school tuition fund the total amounts allowed to them under Sections 14054, 14057, 14058, 41790, 41800, 41810, 41811, 41840, 41841, 41863, 41866, 41882, 41884, 41885, 41886, 41888, 41950, 41970, 41971, 42004, 42005, 42054, 42055, 42056, and 52205, whichever are in effect. This apportionment shall be called the second principal apportionment.

SEC. 14. Section 41716 of the Education Code is repealed.

SEC. 15. Section 41716.5 of the Education Code is repealed.

SEC. 16. Section 41718 of the Education Code is amended to read:

41718. (a) For the 1976–77 fiscal year, each elementary school foundation program shall be increased by one hundred three dollars

($103) and each high school foundation program shall be increased by one hundred four dollars ($104).

(b) For the 1977–78 fiscal year, each elementary school and each high school foundation program shall be increased by seventy-five dollars ($75).

(c) For the 1978–79 fiscal year, each elementary school and each high school foundation program shall be increased by one hundred fifty-four dollars ($154).

(d) For the 1979–80 fiscal year, each elementary school and each high school foundation program shall be increased by one hundred nineteen dollars ($119).

(e) For the 1980–81 fiscal year and fiscal years thereafter, the increase in elementary and high school foundation programs shall be 6 percent times an amount which is determined as follows: (1) Multiply the unit elementary school foundation program for unified districts which have an elementary average daily attendance of 901 or more by the elementary foundation program units of average daily attendance of unified districts with 901 or more elementary average daily attendance, plus (2) multiply the unit high school foundation program for unified districts which have a high school average daily attendance of 301 or more, by the average daily attendance of unified school districts with 301 or more high school daily attendance, and (3) divide the results by the sum of the average daily attendance in unified districts with 901 or more elementary average daily attendance plus the average daily attendance in unified districts with 301 or more high school average daily attendance.

SEC. 16.5. Section 41718.5 is added to the Education Code, to read:

41718.5. For the 1977–78 fiscal year the Superintendent of Public Instruction shall apportion to each school district which during the 1976–77 fiscal year had a base revenue limit equal to or less than 120 percent of the foundation program for the 1976–77 fiscal year and which during the 1977–78 fiscal year receives equalization aid pursuant to Section 41810 or Section 41811, or would have received equalization aid had it not been subject to the areawide foundation program pursuant to the provisions of Section 41750, an amount computed as follows:

(a) Multiply the factor computed pursuant to subdivision (b) of Section 42238 by forty-five dollars ($45).

(b) Multiply the product computed pursuant to subdivision (a) by the estimated foundation program average daily attendance of the budget year.

For districts which have a revenue limit in excess of 120 percent of the 1976–77 foundation program the amount in subdivision (a) shall be three dollars ($3), and such computed amounts shall be apportioned to such districts.

The amount computed pursuant to this section shall be apportioned during the 1977–78 fiscal year as if it were part of the

first and second principal apportionments.

For the 1978–79 fiscal year revenue limits pursuant to Section 42238 shall be computed as if the 1977–78 fiscal year foundation program included an additional forty-five dollars ($45) and 1977–78 fiscal year revenue limits were computed on that basis, and the 1978–79 fiscal year foundation program increase was one hundred nine dollars ($109).

Notwithstanding any other provision of the law to the contrary school district governing boards may budget and expend funds apportioned pursuant to this section during the 1977–78 fiscal year.

SEC. 17. Section 41761.3 is added to the Education Code, to read:

41761.3. Commencing with the 1978–79 fiscal year, on or before July 15 of each fiscal year, the Superintendent of Public Instruction shall estimate the computational tax rates to the nearest one cent ($0.01) per one hundred dollars ($100) of assessed valuation, which if levied statewide, would raise sufficient local revenues to maintain the state share of the estimated total of the elementary foundation program and the state share of the estimated total of the high school foundation program in the 1977–78 fiscal year including funds apportioned pursuant to Section 41841 for equalization aided school districts in the then current fiscal year. These tax rates shall be used as the computational tax rates to determine aid under the foundation program as provided in Section 41761 for purposes of the advance apportionment required under Section 41330.

The Superintendent of Public Instruction shall notify all school districts and county superintendents of schools on or before July 15 of each fiscal year of the estimated computational tax rates and these rates shall be used by school districts in estimating the state aid to be received under the foundation program for that fiscal year in the preparation of their publication budget.

For the 1977–78 fiscal year the funds apportioned pursuant to Section 41718.5 shall be deemed to be part of the 1977–78 foundation program.

SEC. 18. Section 41761.5 is added to the Education Code, to read:

41761.5. On or before February 20 and June 25 of each fiscal year, the Superintendent of Public Instruction shall reestimate the computational tax rates as prescribed in Section 41761.3. These reestimated computational tax rates shall be used in determining the amounts of state aid under the foundation program to be apportioned to school districts for the first principal and second principal apportionments respectively. The computational tax rates as determined by the Superintendent of Public Instruction at the time of the second principal apportionment shall be final and shall be used in any subsequent fiscal year to compute adjustive apportionments for the earlier fiscal year as provided for in Sections 41341, 41342, and 41343.

SEC. 19. Section 41762 of the Education Code is amended to read:

41762. The Superintendent of Public Instruction shall compute

the areawide aid to be utilized in determining state apportionments to be made for the support of elementary school districts and high school districts with respect to which an areawide foundation program is computed under Article 3 (commencing with Section 41750) of this chapter. Areawide aid shall be the amount which a tax levied on each one hundred dollars ($100) of 100 percent of the assessed valuation for the current fiscal year pursuant to Section 41760.5, modified where necessary pursuant to Section 41201, of the area comprising all of such elementary school districts and all of such high school districts would produce, if levied, if such tax were: (a) in the case of the elementary school district area, one dollar ($1); and (b) in the case of the high school district area, eighty cents ($0.80).

If the Superintendent of Public Instruction finds that the difference obtained by subtracting the areawide aid as computed under the above provisions of this section from the areawide foundation program is less than the product obtained by multiplying the average daily attendance used for foundation program purposes by one hundred twenty dollars ($120), he shall reduce the areawide aid to an amount which, when added to such product, will equal the amount of the areawide foundation program.

SEC. 20. Section 41790 of the Education Code is amended to read:

41790. The Superintendent of Public Instruction shall allow one hundred twenty dollars ($120) to each elementary school district for each unit of average daily attendance therein during the fiscal year as computed for the district under Sections 46117 and 46333, but not less than two thousand four hundred dollars ($2,400) shall be allowed to any elementary school district, to be known as basic state aid.

SEC. 21. Section 41800 of the Education Code is amended to read:

41800. The Superintendent of Public Instruction shall allow to each high school district one hundred twenty dollars ($120) for each unit of average daily attendance in the district during the fiscal year as computed under Sections 46332 and 46350, subject to the provisions of Section 41608, but not less than two thousand four hundred dollars ($2,400) shall be allowed to any high school district, to be known as basic state aid.

The Superintendent of Public Instruction shall exclude from the computation of allowances provided by this section the average daily attendance during the fiscal year of adults, as adults are defined in Section 52610, and of inmates of any state penal institution for adults or of any city, county, or city and county jail, road camp or farm for adults.

SEC. 22. Section 41830 of the Education Code is amended to read:

41830. Notwithstanding the provisions of Articles 5, 6, and 7 (commencing with Sections 41790, 41800, and 41810, respectively) of this chapter, or any other provision of law to the contrary, if the computation made under Article 7 (commencing with Section

41810) of this chapter for any grade level maintained by a district, results in no allowance of equalization aid for such district for such grade level, the amount allowable therefor to such district under said Articles 5, 6, and 7 (commencing with Sections 41790, 41800, and 41810, respectively) of this chapter, per unit of the particular categories of average daily attendance used for such computations, shall be one hundred twenty dollars ($120) per unit of such average daily attendance during the preceding fiscal year.

SEC. 23. Section 41840 of the Education Code is amended to read:

41840. The allowance for each unit of average daily attendance during the 1976–77 fiscal year for adults, as adults are defined in Section 52610, for high school districts shall be the adult foundation program of eight hundred sixty-two dollars ($862) less the product of one dollar ($1) multiplied by each one hundred dollars ($100) of the assessed valuation of the district, as modified pursuant to Section 41201, per unit of total regular high school average daily attendance plus adult average daily attendance. The total of state aid shall not be less than one hundred twenty dollars ($120) per unit of average daily attendance.

For subsequent fiscal years, the adult foundation program shall be the adult foundation program for the previous fiscal year increased by 6 percent.

SEC. 24. Section 41841 of the Education Code is amended to read:

41841. The Superintendent of Public Instruction shall determine the amount of state equalization aid to be added to the regular high school foundation program apportionments for each school district with adult average daily attendance in the 1976–77 fiscal year as follows:

He shall determine the adult average daily attendance used in computing state aid under the high school foundation program in the 1975–76 fiscal year and compute the 1976–77 fiscal year equalization aid according to the high school foundation program for the 1976–77 fiscal year using that 1975–76 fiscal year average daily attendance.

He shall recompute the equalization aid to the high school foundation program with the adult average daily attendance excluded and shall determine the loss of equalization aid due to excluding adult average daily attendance. To this amount he shall add the state equalization aid for defined adults in the 1975–76 fiscal year. He shall compute the state equalization aid for adults pursuant to Section 41840 and shall deduct this amount from the sum of the state equalization aid for defined adults in the 1975–76 fiscal year and the loss of equalization aid due to excluding adults from the high school foundation program. The remainder shall be added to the equalization aid for the high school foundation program for that district in the 1976–77 fiscal year.

If the adult average daily attendance of the current year is less than the comparable adult average daily attendance determined for

1975–76, the current year adult average daily attendance shall be used in lieu of the 1975–76 adult average daily attendance in determining the amount of state equalization aid to be added to the regular high school program. If there is no adult average daily attendance for the current year this section shall not apply.

The Superintendent of Public Instruction shall apportion to each school district which received funds pursuant to this section in the 1977–78 fiscal year an amount equal to 75 percent of such amount in the 1978–79 fiscal year, 57 percent of such amount in the 1979–80 fiscal year, 33 percent of such amount in the 1980–81 fiscal year, and 23 percent of such amount in the 1981–82 fiscal year.

This section shall cease to be operative on July 1, 1982, and as of such date is repealed.

SEC. 25. Section 41950 of the Education Code is amended to read:

41950. The Superintendent of Public Instruction shall allow to each county school tuition fund one hundred twenty dollars ($120) for each unit of average daily attendance of pupils residing in the county and attending school in an adjoining state during the fiscal year. Such average daily attendance shall not be included in the computations provided for in Section 41761.

SEC. 26. Chapter 5.5 (commencing with Section 42000) is added to Part 24 of the Education Code, to read:

CHAPTER 5.5. GUARANTEED YIELD PROGRAM

Article 1. Computations for School Districts

42000. Commencing with the 1978–79 fiscal year, the Superintendent of Public Instruction shall compute an amount of supplemental state support for equalization-aided school districts whose revenue limits per unit of average daily attendance exceed the foundation programs per unit of average daily attendance at either or both the elementary and high school level. The amount so computed shall be based on the actual tax rate levied for revenue limit purposes, and shall be known as the state guaranteed yield supplement.

42001. (a) On or before July 15 of each fiscal year the Superintendent of Public Instruction shall determine the computational tax rates used to compute the state guaranteed yield supplement. These guaranteed yield computational rates shall be determined as follows:

(1) For elementary school districts and for the elementary level of unified school districts, he shall divide the foundation program for elementary school districts specified in paragraph (2) of subdivision (b) Section 41703 as adjusted pursuant to law less basic aid by the product of one one-hundredth (0.01) times the elementary school district computational tax rates used to determine state aid under the foundation program pursuant to Section 41761.3. This quotient shall

then be divided into one dollar ($1) and the quotient derived shall constitute the elementary guaranteed yield computational tax rate.

(2) For high school districts and for the high school level of unified school districts, he shall divide the foundation program for high school districts specified in Section 41712 as adjusted pursuant to law less basic aid by the product of one one-hundredth (0.01) times the high school computational tax rates used to determine state aid under the foundation program pursuant to Section 41761.3. This quotient shall then be divided into one dollar ($1) and the quotient derived shall constitute the high school guaranteed yield computational tax rate.

(b) The guaranteed yield computational tax rates determined pursuant to this section shall be computed to three significant figures.

42002. The state guaranteed yield supplement for elementary school districts and for the elementary level of unified school districts shall be determined as follows:

(a) The foundation program per unit of average daily attendance for elementary school districts or the elementary level of unified school districts as determined pursuant to Article 1 (commencing with Section 41700), Article 2 (commencing with Section 41730), and Article 8.5 (commencing with Section 41835), of Chapter 5 of this part, shall be subtracted from the revenue limit per unit of average daily attendance for the elementary school or the unified school district as a whole as determined pursuant to Education Code Sections 42212, 42238, 42239, 42241, 42241.3, 42243.5, and 42244 for overrides in effect on July 1, 1977, less any adjustment to revenue limits pursuant to item (2) of subdivision (i) of Section 42238.

(b) The difference as determined in subdivision (a) shall be multiplied by the appropriate elementary guaranteed yield computational tax rate determined pursuant to paragraph (1) of subdivision (a) of Section 42001 and the resulting product then multiplied by the modified assessed valuation per unit of elementary average daily attendance of the district.

(c) The product determined in subdivision (b), shall be subtracted from the difference determined in subdivision (a) and this amount shall be the state guaranteed yield supplement per unit of elementary average daily attendance.

If the guaranteed yield supplement per elementary unit of average daily attendance as determined above is calculated to be less than zero, it shall be determined to be zero.

42003. The state guaranteed yield supplement for high school districts and for the high school level of unified school districts shall be determined as follows:

(a) The actual foundation program per unit of average daily attendance for high school districts or the high school level of unified school districts as determined pursuant to Article 1 (commencing with Section 41700), Article 2 (commencing with Section 41730), and Article 8.5 (commencing with Section 41835) of Chapter 5 of this part

and Section 52047, shall be subtracted from the total of the revenue limit per unit of average daily attendance for the high school district or the unified school district as a whole as determined pursuant to Education Code Sections 42212, 42238, 42239, 42241, 42241.3, and 42244, less any adjustment to revenue limits pursuant to item (2) of subdivision (i) of Section 42238.

(b) The difference as determined in subdivision (a) shall be multiplied by the appropriate tax rate determined pursuant to paragraph (2) of subdivision (a) of Section 42001 and the resultant product then multiplied by the modified assessed valuation per unit of high school average daily attendance of the district.

(c) The product determined in subdivision (b) shall be subtracted from the difference determined in subdivision (a) and this amount shall be the state guaranteed yield supplement per unit of high school average daily attendance.

If the guaranteed yield supplement per unit of high school average daily attendance is calculated to be less than zero, it shall be determined to be zero.

42004. The Superintendent of Public Instruction shall allow to each elementary school district or to the elementary level of each unified school district the product of the elementary average daily attendance during the fiscal year and the amount of the guaranteed yield supplement per unit of elementary average daily attendance computed for the district under Section 42002.

42005. The Superintendent of Public Instruction shall allow to each high school district or to the high school level of each unified school district the product of the high school average daily attendance during the fiscal year and the amount of the guaranteed yield supplement per unit of average daily attendance computed for the district under Section 42003.

42006. On or before February 20 and June 25 of each fiscal year, the Superintendent of Public Instruction shall recalculate the computational tax rates used to compute the state guaranteed yield supplement using in his recalculation his reestimate of elementary and high school computational tax rates used to determine state aid under the foundation program as determined pursuant to Section 41761.5.

The recalculated guaranteed yield computational tax rates shall then be used to determine the amount of the state guaranteed yield supplement to be apportioned each school district for purposes of the first and second principal apportionments, respectively.

The guaranteed yield computational rates as determined by the Superintendent of Public Instruction at the time of the second principal apportionment shall be final as to that fiscal year and shall be used in any subsequent fiscal years to compute adjustive apportionments for the earlier fiscal year as provided for in Sections 41341, 41342, and 41343.

42007. (a) The amount transferred to Section A of the State School Fund pursuant to Section 14006 shall be expended in support

of the state guaranteed yield supplement to be apportioned on account of average daily attendance as provided in this chapter.

(b) If the total amount provided for in Section 14006 is less than the apportionments required by this chapter, the apportionments shall be reduced proportionately.

SEC. 27. Chapter 5.7 (commencing with Section 42050) is added to Part 24 of the Education Code, to read:

CHAPTER 5.7. STATE GUARANTEED YIELD SUPPLEMENT FOR TEACHERS' RETIREMENT

42050. The Superintendent of Public Instruction shall compute an amount of state aid for teachers' retirement. The amount so computed shall be known as the state guaranteed yield supplement for teachers' retirement.

(a) On or before July 15 of each fiscal year the Superintendent of Public Instruction shall determine the computational tax rate used to compute the state guaranteed yield supplement for teachers' retirement. These guaranteed yield computational rates shall be determined as follows:

(1) For elementary school districts and for the elementary level of unified school districts, he shall divide the unit foundation program for the then current fiscal year for elementary school districts less basic aid by the product of one one-hundredth (0.01) times the elementary school district computational tax rates used to determine state aid under the foundation program pursuant to Section 41761.3. The result shall be multiplied by 1.125. This quotient shall then be divided into one dollar ($1) and the quotient derived shall constitute the elementary guaranteed yield computational tax rate for teachers retirement.

(2) For high school districts and for the high school level of unified school districts, he shall divide the foundation program for high school districts less basic aid by the product of one one-hundredth (0.01) times the high school computational tax rates pursuant to Section 41761.3. The result shall be multiplied by 1.125. This quotient shall then be divided into one dollar ($1) and the quotient derived shall constitute the high school guaranteed yield computational tax rate for teachers' retirement.

(b) The guaranteed yield computational tax rates determined pursuant to this section shall be computed to three significant figures.

42051. The state guaranteed yield supplement for teachers' retirement for elementary school districts and for the elementary level of unified school districts shall be determined as follows:

(a) The county superintendent of schools shall determine the district contribution per unit of average daily attendance pursuant to Section 23400 less any amount deducted pursuant to subdivision (b) of Section 23401.5.

(b) The amount in subdivision (a) shall be multiplied by the

appropriate elementary guaranteed yield tax rate for teachers' retirement determined pursuant to paragraph (1) of subdivision (a) of Section 42050, and the resulting product then multiplied by the modified assessed valuation per unit of elementary average daily attendance of the district.

(c) The product determined in subdivision (b), shall be subtracted from the difference determined in subdivision (a) and this amount shall be the state guaranteed yield supplement for teachers' retirement per unit of elementary average daily attendance.

If the guaranteed yield supplement for teachers' retirement per elementary unit of average daily attendance as determined above is calculated to be less than zero, it shall be determined to be zero.

42052. The state guaranteed yield supplement for teachers' retirement for high school districts and for the high school level of unified school districts shall be determined as follows:

(a) The county superintendent of schools shall determine the district contribution per unit of average daily attendance pursuant to Section 23400 less any amount deducted pursuant to subdivision (b) of Section 23401.5.

(b) The amount in subdivision (a) shall be multiplied by the appropriate tax rate determined pursuant to paragraph (2) of subdivision (a) of Section 42050 and the resultant product then multiplied by the modified assessed valuation per unit of high school average daily attendance of the district.

(c) The product determined in subdivision (b) shall be subtracted from the difference in subdivision (a) and this amount shall be the state guaranteed yield supplement for teacher's retirement per unit of high school average daily attendance.

If the guaranteed yield supplement for teachers' retirement per unit of high school average daily attendance is calculated to be less than zero, it shall be determined to be zero.

42053. The state guaranteed yield supplement for teachers' retirement for adult average daily attendance shall be determined as follows:

(a) For revenue limits authorized by Section 43001, the amount determined in subdivision (a) of Section 23401.5 less any reduction prescribed by subdivision (b) of Section 23401.5 shall be divided by the adult average daily attendance of the district.

(b) For school districts with adult average daily attendance, the amount determined in subdivision (a) shall be multiplied by the secondary guaranteed yield tax rate for teachers' retirement determined pursuant to paragraph (2) subdivision (a) of Section 42050 and the resulting product then multiplied by the modified assessed valuation per unit of secondary plus adult average daily attendance of the district. The resulting amount shall be subtracted from the amount determined in subdivision (a) and this amount shall be the state guaranteed yield supplement for teachers' retirement per unit of adult average daily attendance.

42054. The Superintendent of Public Instruction shall allow to each elementary school district or to the elementary level of each unified school district the product of the elementary average daily attendance during the fiscal year and the amount of the guaranteed yield supplement for teachers' retirement per unit of elementary average daily attendance computed for the district under Section 42051.

42055. The Superintendent of Public Instruction shall allow to each high school district or to the high school level of each unified school district the product of the high school average daily attendance during the fiscal year and the amount of the guaranteed yield supplement per unit of average daily attendance computed for the district under Section 42052.

42056. The Superintendent of Public Instruction shall allow to each school district with adult average daily attendance, the product of the adult average daily attendance during the fiscal year and the amount of the guaranteed yield supplement for teachers' retirement per unit of adult average daily attendance computed for the district under Section 42053.

42057. On or before February 20 and June 25 of each fiscal year, the Superintendent of Public Instruction shall recalculate the computational tax rates used to compute the state guaranteed yield supplement for teachers' retirement using in his recalculation his reestimate of elementary and high school computational tax rates used to determine state aid under the foundation program.

The recalculated guaranteed yield computational tax rates for teachers' retirement shall then be used to determine the amount of the state guaranteed yield supplement for teachers' retirement to be apportioned each school district for purposes of the first and second principal apportionments, respectively.

The guaranteed yield computational rates for teachers' retirement as determined by the Superintendent of Public Instruction at the time of the second principal apportionment shall be final and shall be used in any subsequent fiscal years to compute adjustive apportionments for the earlier fiscal year.

SEC. 28. Section 42238 of the Education Code is amended to read:

42238. For the 1974–75 fiscal year and each fiscal year thereafter, (a) the maximum general purpose tax rate for each elementary, high, and unified school district in the county shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined by the Superintendent of Public Instruction pursuant to

this subdivision. For elementary school districts, it shall be the foundation program for districts which have an average daily attendance of 901 or more. For high school districts it shall be the foundation program for districts with an average daily attendance of 301 or more. For unified districts, it shall be the sum of (1) the foundation program of elementary districts which have an average daily attendance of 901 or more multiplied by the elementary foundation program units of average daily attendance of unified districts in the second principal apportionment, plus (2) the foundation program for high school districts with an average daily attendance of 301 or more multiplied by the high school foundation program units of average daily attendance of unified districts in the second principal apportionment divided by (3) the sum of the elementary and high school units of average daily attendance of unified districts in the second principal apportionment.

(d) (1) Except as provided in paragraph (2), the inflation adjustment shall be based on the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(2) For districts which have a prior year revenue limit per unit of average daily attendance computed pursuant to subdivision (f) which is in excess of 120 percent of the foundation program prescribed in subdivision (c), the inflation adjustment shall be the amount specified in subdivision (a) of Section 41718, but not greater than 7 percent of the foundation programs specified in subdivision (c).

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district and the sum multiplied by the estimated foundation program average daily attendance of the budget year. The product shall be the revenue limit of the district for the budget year.

The revenue limit per foundation program unit of average daily attendance for districts subject to the provisions of paragraph (2) of subdivision (d) shall be no less than the revenue limit per foundation program unit of average daily attendance computed for a district at 120 percent of the foundation program.

(g) Any district which has a revenue limit computed pursuant to subdivision (f) which is equal to or less than the foundation program computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840 as adjusted pursuant to subdivision (e) of Section 14002 may increase its revenue limit computed pursuant to subdivision (f) to the lesser of the foundation

program level of the district or the prior year revenue limit increased by 15 percent (15%).

For the 1974–75 and 1975–76 fiscal years only, notwithstanding subdivision (g) if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the foundation program, it shall be allowed to increase the revenue limit by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily attendance of the prior year and the estimated Public Law 81-874 income per unit of foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, areawide aid to be received for the budget year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System and as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and (2) the income from the prior year's taxes.

(k) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

The amount determined pursuant to subdivision (j) shall be

divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars ($100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district during the 1973–74 fiscal year, exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (g) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below one dollar ($1) on the elementary level or eighty cents ($0.80) on the high school level or one dollar and eighty cents ($1.80) for a unified school district, except that when the district has levied upon it an areawide tax, such areawide tax rate levied shall be considered first as part of the minimum tax rate limit.

This section shall remain in effect only until such time as legislation becomes operative which appropriates funds for the purposes of Sections 6, 7, 8, 9, 10, 14, 15, 27, 28.5, 29, 40, and 41 of the act of the Statutes of 1977 which amends this section, or takes other statutory action to make such sections operative, and as of such time is repealed.

SEC. 28.5. Section 42238 is added to the Education Code, to read:

42238. For the 1974–75 fiscal year and each fiscal year thereafter, (a) the maximum general purpose tax rate for each elementary, high, and unified school district in the county shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined by the Superintendent of Public Instruction pursuant to this subdivision. For elementary school districts, it shall be the foundation program for districts which have an average daily attendance of 901 or more. For high school districts it shall be the foundation program for districts with an average daily attendance of 301 or more. For unified districts, it shall be the sum of (1) the foundation program of elementary districts which have an average daily attendance of 901 or more multiplied by the elementary foundation program units of average daily attendance of unified districts in the second principal apportionment, plus (2) the foundation program for high school districts with an average daily attendance of 301 or more multiplied by the high school foundation

program units of average daily attendance of unified districts in the second principal apportionment divided by (3) the sum of the elementary and high school units of average daily attendance of unified districts in the second principal apportionment.

(d) (1) Except as provided in paragraph (2), the inflation adjustment shall be based on the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(2) For districts which have a prior year revenue limit per unit of average daily attendance computed pursuant to subdivision (f) which is in excess of 120 percent of the foundation program prescribed in subdivision (c), the inflation adjustment shall be the amount specified in subdivision (a) of Section 41718, but not greater than 7 percent of the foundation programs specified in subdivision (c).

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district and the sum multiplied by the estimated foundation program average daily attendance of the budget year. The product shall be the revenue limit of the district for the budget year.

The revenue limit per foundation program unit of average daily attendance for districts subject to the provisions of paragraph (2) of subdivision (d) shall be no less than the revenue limit per foundation program unit of average daily attendance computed for a district at 120 percent of the foundation program.

(g) Any district which has a revenue limit computed pursuant to subdivision (f) which is equal to or less than the foundation program computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840 as adjusted pursuant to subdivision (e) of Section 14002 may increase its revenue limit computed pursuant to subdivision (f) to the lesser of the foundation program level of the district or the prior year revenue limit increased by 15 percent (15%).

For the 1974–75 and 1975–76 fiscal years only, notwithstanding subdivision (g) if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the foundation program, it shall be allowed to increase the revenue limit by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily attendance of the prior year and the estimated Public Law 81-874

income per unit of foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

This subdivision shall not apply to reductions of the revenue limit made pursuant to Sections 42238.5 and 43001.5 or cause the revenue limit of a school district to fall below the appropriate foundation program level of the district.

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, areawide aid to be received for the budget year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for district contributions for the State Teachers' Retirement System and local retirement systems pursuant to Section 23401.5. The adjusted amount shall be the local revenue limit of the district for the budget year.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and (2) the income from the prior year's taxes.

(k) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

The amount determined pursuant to subdivision (j) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars ($100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district during the 1973–74 fiscal year, exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no

greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (g) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below one dollar ($1) on the elementary level or eighty cents ($0.80) on the high school level or one dollar and eighty cents ($1.80) for a unified school district, except that when the district has levied upon it an areawide tax, such areawide tax rate levied shall be considered first as part of the minimum tax rate limit.

This section shall become operative at the same time as legislation becomes operative which appropriates funds for the purposes of Sections 6, 7, 8, 9, 10, 14, 15, 27, 28.5, 29, 40, and 41 of the act of the Statutes of 1977 which adds this section, or takes other statutory action to make such sections operative.

SEC. 29. Section 42238.5 is added to the Education Code, to read:

42238.5. The revenue limit per unit of average daily attendance of a district shall be reduced by the amount, if any, per unit of average daily attendance which the district added to its base revenue limit for the 1972–73 fiscal year for purposes of the State Teachers' Retirement System.

SEC. 30. Section 42239 of the Education Code is amended to read:

42239. A district may add in Sections 42233 and 42238 for purposes of increasing the district's revenue limit for the budget year a portion of its loss in average daily attendance when it is anticipated that the estimated second principal apportionment units of average daily attendance, excluding defined adults and summer school average daily attendance, will be less than those of the preceding year. The number of units of average daily attendance to be added is determined as follows:

(a) When the reduction in average daily attendance is less than 1 percent of the preceding year average daily attendance no adjustment is allowed.

(b) When the reduction in average daily attendance is greater than 1 percent of the preceding year average daily attendance, the estimated average daily attendance of the budget year may be increased by 75 percent of that difference in the first preceding year, and, commencing with the 1978–79 fiscal year, 50 percent of the difference in the second preceding year.

The amount calculated in subdivision (b) times the revenue limit per unit of average daily attendance shall be considered an addition to the district revenue limit, but shall not be used to compute state apportionments.

This amount of adjustment in estimated units of average daily attendance shall be allowed without requiring a reduction in the revenue limit in the subsequent year which otherwise would be required pursuant to Section 42245, except that to the extent that actual data differs from the estimated unit of average daily attendance used in this section, Section 42245 shall be applicable.

SEC. 31. Section 42241.3 is added to the Education Code, to read:

42241.3. (a) The revenue limit of any school district with a necessary small high school shall be adjusted annually pursuant to this section.

(b) For the 1977–78 fiscal year, the county superintendent of schools shall determine the difference between the district's total foundation program computed pursuant to subdivision (a) of Section 41711 and the product of the district's revenue limit per unit of average daily attendance and the average daily attendance at the necessary small high school.

(c) For the 1978–79 fiscal year and thereafter, he shall determine the difference between the district's total estimated foundation program computed pursuant to subdivision (a) of Section 41711 and the product of the district's revenue limit per unit of average daily attendance and the estimated average daily attendance at the necessary small high school. From that amount, he shall further subtract the amount determined pursuant to subdivision (b).

(d) If the amount determined in subdivision (c) is greater than zero (0), it shall be added to the district's revenue limit. If the amount determined is less than zero (0), no change in the revenue limit shall be computed pursuant to this section.

(e) To the extent actual data differs from the estimated data used in this section, Section 42245 shall be applicable.

SEC. 32. Article 4 (commencing with Section 42280) is added to Chapter 7 of Part 24 of the Education Code, to read:

Article 4. Equalized Voted Overrides

42280. Commencing July 1, 1977, the revenue limit per unit of average daily attendance prescribed by Section 42233 and 42238 may be increased pursuant to this chapter upon approval of a majority of the electors of the district voting on a proposition to that effect pursuant to Section 42202. Such approval may be granted for any period of time, and the budget year revenue limit of the district shall be increased by such amount in the computing the maximum general purpose tax rate for each year in which the voted revenue limit is effective.

42281. The tax rate levied for any increase authorized pursuant to Section 42280 shall be determined pursuant to Section 42001.

(a) For districts meeting the criteria prescribed in Section 42000, state aid shall be provided pursuant to Section 42002 and 42003.

(b) For districts meeting the criteria prescribed in Section 42500, the excess revenues generated pursuant to Section 42501 shall be deposited in Section A of the State School Fund.

(c) For unified school districts that meet the criteria of Section 42000 on one level only, state aid shall be provided pursuant to Section 42001 for that level, and for the other level the tax rate levied for any increase authorized pursuant to Section 42280 shall be computed based upon the district's actual wealth.

42282. The county auditor, in cooperation with the county superintendent of schools, shall determine the amount of excess from the income from tax rates levied pursuant to Section 42281. A county shall collect the taxes on the basis of the rates required by Section 42281. The county shall allocate the taxes on the basis of the increase in the revenue limit approved by the electors pursuant to Section 42202. If the taxes collected are in excess of the amount to be allocated within the county, the excess shall be paid to Section A of the State School Fund.

42283. Remittances to Section A of the State School Fund pursuant to Section 42282 shall be due to the State Controller not later than 30 days after the delinquency date specified in Sections 2704 and 2705 of the Revenue and Taxation Code.

Payments shall be made by the county auditor pursuant to computations and tax collections made on behalf of school districts within the county required to make such payments. Payments not received by the State Controller within 10 days of the prescribed due date are delinquent, and shall accrue the same penalties as delinquent payments under the provisions of Sections 2704 and 2705 of the Revenue and Taxation Code.

SEC. 33. Section 42244.2 of the Education Code is repealed.

SEC. 34. Section 42244.3 of the Education Code is repealed.

SEC. 35. Section 42244.4 of the Education Code is repealed.

SEC. 36. Section 42244.5 of the Education Code is repealed.

SEC. 37. Section 42244.6 of the Education Code is repealed.

SEC. 38. Chapter 8.5 (commencing with Section 42500) is added to Part 24 of the Education Code, to read:

CHAPTER 8.5. SCHOOL DISTRICT EQUALIZATION TAX

42500. Commencing with the 1978–79 fiscal year, whenever the assessed valuation per unit of average daily attendance of an elementary or high school district is greater than the amount computed by dividing the foundation program, as computed by the Superintendent of Public Instruction for the then current fiscal year less basic aid, by the product of one-one hundredth (0.01) and the computational tax rate specified by Section 41761.3, the tax rate of the district shall be adjusted pursuant to this chapter.

In the case of a unified district, the computation shall be made separately for the high school and elementary levels. Tax rates of unified districts shall be adjusted pursuant to this chapter only if both the elementary and high school computations exceed the level prescribed in this section.

42501. For any district meeting the criteria prescribed in Section 42500, the district shall compute its maximum tax rate pursuant to this section, as follows:

(a) Determine the difference between the district revenue limit computed pursuant to Sections 42238, 42239, and 42244 for the levied portion of voted overrides in effect prior to July 1, 1977, and the

appropriate foundation program per unit of average daily attendance, as determined pursuant to subdivision (c) of Section 42238.

(b) Multiply the amount determined pursuant to subdivision (a) by the following:

Fiscal Year	Amount
1978–79	.10
1979–80	.15
1980–81	.20
1981–82 and thereafter	.20

(c) A tax rate shall be computed that would raise the amount of revenue determined in subdivision (b) per unit of average daily attendance using the elementary computational tax rate computed in paragraph (1) of subdivision (a) of Section 42001 for elementary school districts, the high school computational tax rate of paragraph (2) of subdivision (a) of Section 42001 for high school districts, or both computational tax rates for unified school districts.

(d) The tax rate computed in subdivision (c) shall be multiplied by the modified assessed value of the district and from the resultant product shall be subtracted the amount per unit of average daily attendance determined in subdivision (b) multiplied by the average daily attendance in the district in the current year.

(e) A tax rate sufficient to raise the amount computed in subdivision (d) shall be levied by the school district, and the revenue from this tax levy shall be remitted to Section A of the State School Fund.

42502. Remittances to Section A of the State School Fund pursuant to Section 42501 shall be due to the State Controller not later than 30 days after the delinquency date specified in Sections 2704 and 2705 of the Revenue and Taxation Code.

Payments shall be made by the county auditor pursuant to computations and tax collections made on behalf of school districts within the county required to make such payments. Payments not received by the State Controller within 10 days of the prescribed due date are delinquent, and shall accrue the same penalties as delinquent payments under the provisions of Sections 2704 and 2705 of the Revenue and Taxation Code.

SEC. 39. Chapter 8.7 (commencing with Section 42520) is added to Part 24 of the Education Code, to read:

CHAPTER 8.7. MINIMUM SCHOOL DISTRICT PROPERTY TAX RATES

42520. Commencing with the 1978–79 fiscal year, the minimum general purpose tax rates for school districts are:

Type of district	Tax rate
Elementary school district	$1.00
High school district	.80
Unified school district	1.80

42521. If the tax rate for a school district computed pursuant to Section 42238 42403, 42502, and Section 42244 for overrides in effect prior to July 1, 1977, is less than the amount specified in Section 42520, the rate levied shall be increased to the minimum for that type of district.

42522. The difference in revenue between what would be raised by the rate computed pursuant to Section 42238 42403, 42502, and Section 42244 for overrides in effect prior to July 1, 1977, and the minimum rate specified by Section 42520 shall be transmitted to the state for deposit in Section A of the State School Fund.

The county auditor and the county superintendent of schools shall compute the amount of excess which shall be transmitted to the fund.

42523. Remittances to Section A of the State School Fund pursuant to Section 42522 shall be due to the State Controller not later than 30 days after the delinquency date specified in Sections 2704 and 2705 of the Revenue and Taxation Code.

Payments shall be made by the county auditor pursuant to computations and tax collections made on behalf of school districts within the county required to make such payments. Payments not received by the State Controller within 10 days of the prescribed due date are delinquent, and shall accrue the same penalties as delinquent payments under the provisions of Sections 2704 and 2705 of the Revenue and Taxation Code.

SEC. 40. Section 43001 of the Education Code is amended to read:

43001. For the 1977–78 fiscal year and each fiscal year thereafter:

(a) The maximum tax rate for adult education programs of a school district shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per adult foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the adult foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The adult foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined pursuant to Section 41840.

(d) The inflation adjustment shall be based on the increase or decrease in the adult foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation

adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added or subtracted, as the case may be, to the prior year revenue limit per adult foundation program unit of average daily attendance of the district and the sum multiplied by the estimated adult foundation program average daily attendance of the budget year. The product shall be the adult revenue limit of the district for the budget year.

(g) Any district which has an adult revenue limit computed pursuant to subdivision (f) which is equal to or less than the adult foundation program computed for the district pursuant to Section 41840 may increase its revenue limit computed pursuant to subdivision (f) to the lesser of the adult foundation program level of the district or the prior year revenue limit increased by 15 percent, beginning in 1977–78.

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for district contributions for the State Teachers' Retirement System and local retirement systems as required by Section 23401.5.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes related to adult education on property on the unsecured roll of the budget year and income from the prior year's taxes.

(k) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners' exemption and exclusive of the assessed valuation increment used to allocate tax receipts to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

The amount determined pursuant to subdivision (j) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars ($100) of such assessed valuation and shall be the maximum adult education tax rate which may be levied in the district during the 1976–77 fiscal year.

This section shall be subject to the provisions of Sections 42244 and 42245.

SEC. 41. Section 43001.5 of the Education Code is added, to read:

43001.5. The revenue limit per unit of adult average daily attendance for a district shall be reduced by the amount, if any, per unit of average daily attendance which was included in the establishment of the adult base revenue limit and which was for

purposes of the State Teachers' Retirement System.

SEC. 42. It is the intent of the Legislature that pupils attending public schools in California acquire the knowledge, skills and confidence required to function effectively in contemporary society.

The Legislature finds that high school graduation requirements are generally related to "seat time" and tied to college entrance requirements.

The Legislature further finds that some pupils currently graduating from the public schools lack competence in essential communication and computation skills, and the confidence that they can cope successfully with a complex society.

It is the intent and purpose of the Legislature to ensure the development of clearly defined proficiency standards in basic communication and computation skills for pupils attending public schools. It is the purpose of Section 43 of this act to ensure early identification of pupils lacking competence in basic skills, so that such pupils can receive appropriate assistance to achieve mastery of such skills prior to high school graduation.

It is the purpose of Section 43.5 of this act to provide students with opportunities to utilize community education resources and to develop and demonstrate their abilities in a variety of educational settings.

SEC. 43. Article 2.5 (commencing with Section 51215) is added to Chapter 2 of Part 28 of the Education Code, to read:

Article 2.5. Student Progress, Elementary and Secondary Schools

51215. The governing board of each school district maintaining a junior or senior high school shall, by June 1, 1978, adopt standards of proficiency in basic skills for pupils attending school within its school district.

The governing board of each school district maintaining grades 6 or 8, or the equivalent, shall, by June 1, 1979, adopt standards of proficiency in basic skills for pupils attending such grades.

Such standards shall include, but need not be limited to, reading comprehension, writing, and computation skills, in the English language, necessary to success in school and life experiences, and shall be such as will enable individual achievement to be ascertained and evaluated. Differential standards and assessment procedures may be adopted for pupils with diagnosed learning disabilities.

Governing boards maintaining elementary or junior high schools located within a school district maintaining a high school shall adopt standards of proficiency in basic skills which are articulated with those standards adopted by the school district maintaining the high school.

Designated employees of all school districts located within a high school district and one or more designees of the high school district shall meet prior to June 1, 1979, to plan for articulation of elementary and high school proficiency standards, and as necessary thereafter to

review the effectiveness of such articulation procedures.

Standards of proficiency shall be adopted by the governing board with the active involvement of parents broadly reflective of the socioeconomic composition of the district, administrators, teachers, counselors, and, with respect to standards in secondary schools, pupils.

51216. Beginning in the 1978–79 school year, the governing board of each district maintaining a junior or senior high school, and beginning in the 1979–80 school year, the governing board of each district maintaining an elementary school, shall take appropriate steps to ensure that individual pupil progress towards proficiency in basic skills is assessed in the English language during the regular instructional program at least once during the 4th through 6th grade experience, once during the 7th through 9th grade experience and twice during the 10th through 11th grade experience, provided that any pupil who demonstrates proficiency up to prescribed levels for graduation from high school need not be reassessed. Nothing in this section shall preclude any district from conducting an assessment of any pupil in English and in the native language of such pupil.

It is the intent of the Legislature that pupil assessments measure the progress of each pupil in mastering basic skills rather than the pupil's performance relative to his or her classmates.

In the case of any pupil who does not demonstrate sufficient progress toward mastery of basic skills so that he or she will be able to meet prescribed standards upon exit from the 6th, 8th, or 12th grade, whichever is appropriate, the principal shall arrange a conference among the principal or the principal's designee, the parent or guardian of the pupil, and a teacher familiar with the pupil's progress to discuss the results of the individual pupil assessment and recommended actions to further the pupil's progress.

The secondary school pupil shall attend the conference. The elementary school pupil shall attend the conference unless the principal's designee and the parent or guardian agree that such presence would not be in the pupil's best interest.

The pupil and the parent or guardian shall be requested in writing to attend the conference. Such notice shall be written in the primary language of the parent or guardian, whenever practicable.

Absent a response from the parent or guardian the school shall make a reasonable effort to contact him or her by other means to communicate directly the information contained in the written request.

At the conference, the principal or the principal's designee shall describe the instructional program which shall be provided to assist the pupil to master basic skills. If the parent or guardian does not attend the conference the principal or the principal's designee shall communicate such information by other means within 10 days of the date of the conference.

Instruction in basic skills shall be provided for any pupil who does not demonstrate sufficient progress toward mastery of basic skills

and shall continue until the pupil has been given numerous opportunities to achieve mastery.

51217. Subsequent to June 1980, no pupil shall receive a diploma of graduation from high school if he or she has not met the standards of proficiency in basic skills prescribed by the secondary school district governing board.

The State Board of Education shall, by February 1, 1978, prepare and distribute to each school district maintaining a junior or senior high school, and by October 1, 1978, prepare and distribute to each district maintaining an elementary school, a framework for assessing pupil proficiency in reading comprehension, writing, and computation skills. Such framework shall include a range of assessment items in each skill area. The assessment framework shall be provided solely to assist each school district in the development of its own pupil assessments as required by Section 51216.

Nothing in this section shall be construed to authorize or permit the State Board of Education to adopt statewide minimum proficiency standards for high school graduation.

SEC. 43.5. Section 51225 of the Education Code is amended to read:

51225. No pupil shall receive a diploma of graduation from high school who has not completed the course of study prescribed by the governing board. Requirements for graduation shall include:

(a) English.

(b) American history.

(c) American government.

(d) Mathematics.

(e) Science.

(f) Physical education, unless the pupil has been exempted pursuant to the provisions of this code.

(g) Such other subjects as may be prescribed.

The governing board, with the active involvement of parents, administrators, teachers, and students, shall, by January 1, 1979, adopt alternative means for students to complete the prescribed course of study which may include practical demonstration of skills and competencies, work experience or other outside school experience, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to students, parents, and the public.

SEC. 44. Section 51225.5 of the Education Code is repealed.

SEC. 45. Chapter 6 (commencing with Section 52000) of Part 28 of the Education Code is repealed.

SEC. 46. Chapter 6 (commencing with Section 52000) is added to Part 28 of the Education Code, to read:

CHAPTER 6. IMPROVEMENT OF ELEMENTARY AND SECONDARY EDUCATION

Article 1. General

52000. The Legislature declares its intent to encourage improvement of California elementary, intermediate, and secondary schools to ensure that all schools can respond in a timely and effective manner to the educational, personal, and career needs of every pupil. The Legislature is committed to the belief that schools should:

(a) Recognize that each pupil is a unique human being to be encouraged and assisted to learn, grow, and develop in his or her own manner to become a contributing and responsible member of society.

(b) Assure that pupils achieve proficiency in mathematics and in the use of the English language, including reading, writing, speaking, and listening.

(c) Provide pupils opportunities to develop skills, knowledge, awareness, and appreciations in a wide variety of other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; physical, emotional, and mental health; consumer economics; and career education.

(d) Assist pupils to develop esteem of self and others, personal and social responsibility, critical thinking, and independent judgment.

(e) Provide a range of alternatives in instructional settings and formats to respond adequately to the different ways individual pupils learn.

(f) Maintain a schoolwide process for the involvement of parents broadly reflective of the socio-economic composition of the school attendance area, principals, teachers, other school personnel, pupils attending secondary schools, and members of the community in the development of school improvement plans.

The Legislature, by the provisions of this chapter, intends to support the efforts of each participating school to improve instruction, auxiliary services, school environment, and school organization to meet the needs of pupils at that school.

52001. As used in this chapter:

(a) "Other school personnel" means persons who work directly and on a regular basis with pupils, including administrative employees, as defined in subdivision (d) of Section 33150, pupil services employees, as defined in subdivision (c) of Section 33150, and classified employees.

(b) "Community member" means a person who is neither in the employment of the school district, nor the parent or guardian of a pupil attending the participating school.

(c) "School improvement plan" means a plan which meets the requirements of Section 52014 developed at an individual school and submitted to a local governing board for approval.

(d) "School improvement program" means a program developed

pursuant to an approved school improvement plan.

(e) "District master plan" means a plan which meets the requirements of subdivision (b) of Section 52034.

(f) "Planning grant" means allowances as described in Section 52049 to develop a school improvement plan.

(g) "Implementation grant" means allowances as described in Section 52049 to implement school improvement plans.

(h) "Participating schools" means schools which participate in the school improvement program pursuant to this chapter.

(i) "Secondary schools" means intermediate and secondary schools maintained by a school district.

Article 2. School Improvement Plans

52010. With the exception of subdivisions (a) and (b) of Section 52011, the provisions of this chapter shall apply only to school districts and schools which participate in school improvement programs authorized by this article.

No school shall receive funds pursuant to this chapter unless a planning application or school improvement plan has been approved for the school pursuant to this chapter.

52011. The governing board of each school district shall:

(a) Ensure that the principal of every school receives information covering the provisions of this chapter, and provides such information to teachers, other school personnel, parents, and, in secondary schools, pupils.

(b) Adopt policies to ensure that prior to scheduled phase-in, a school site council as described in Section 52012 is established at each school site to consider whether or not it wishes the local school to participate in the school improvement program. The board shall ensure that all interested persons, including, but not limited to, the principal, teachers, other school personnel, parents, and, in secondary schools, pupils have an opportunity to meet in public to establish such council.

Upon the vote of a majority of the persons represented pursuant to subdivision (a) of Section 52012 and a majority of the persons represented pursuant to subdivision (b) of Section 52012, the council may request the governing board to exclude the school from participation in the school improvement program authorized by this chapter. If the governing board accepts such request, the schedule developed pursuant to subdivision (c) of this section shall be amended to provide for reconsideration of this action at the school no later than three years from the date of the decision not to participate. Final determination as to whether a local school will participate in the school improvement program shall rest with the local governing board.

(c) Establish a plan for the phase-in of schools. Such plan shall ensure that at least one-half of the schools that are participating in any year are schools with the greatest numbers or concentrations of

educationally disadvantaged youth until all such schools participate.

52012. A school site council shall be established at each school which participates in the school improvement program authorized by this chapter. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.

At the elementary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) parents or other community members selected by parents.

At the secondary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel and (b) equal numbers of parents and pupils.

At both the elementary and secondary levels, classroom teachers shall comprise the majority of persons represented under subdivisions (a) of this section.

Existing schoolwide advisory groups or school support groups may be utilized as the school site council if such groups conform to the provisions of this section.

The term and method of selection and replacement of council members shall be specified in the school improvement plan developed pursuant to Section 52014.

The Superintendent of Public Instruction shall provide several examples of selection and replacement procedures which may be considered by school site councils.

52013. Any school site council may apply to the local governing board for a planning grant to develop a three-year school improvement plan.

School level plans developed pursuant to the Early Childhood Education Act of 1972 shall be deemed to meet the requirements for plans under this chapter.

52014. Each plan shall be based on an assessment of school capability to meet the educational needs of each pupil, specify improvement objectives, and indicate steps necessary to achieve such objectives, including intended outcomes. The three year plan shall include activities to implement the components in Sections 52015, 52016, and 52017 within three years. Each school site plan shall provide for annual activities for subdivisions (a), (b), (c), (f), and (g) of Section 52015 and subdivision (a) of 52016; provided that different aspects within subdivision (a) of 52015 may be emphasized in different years. If the school site council finds that an existing program in any component area is of high quality, such program need only be briefly described in the school improvement plan.

52015. Each plan shall include:

(a) Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each pupil which enable all pupils to:

(1) Make continuous progress and learn at a rate appropriate to their abilities.

(2) Master basic skills in language development and reading, writing, and mathematics pursuant to Sections 51215 and 51216.

(3) Develop knowledge and skills in other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education.

(4) Pursue educational interests and develop esteem for self and others, personal and social responsibility, critical thinking, and independent judgment.

Consideration shall be given to the use of community resources, such as museums, libraries, and communications media, to achieve instructional improvement objectives.

(b) Instructional and auxiliary services to meet the special needs of non-English-speaking or limited-English-speaking pupils, including instruction in a language such pupils understand; educationally disadvantaged pupils; and pupils with exceptional abilities or needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers as provided in Section 52019.

(d) Improvement of the classroom and school environments, including improvement of relationships between and among pupils, school personnel, parents, and the community, and reduction of the incidence among pupils of violence and vandalism.

(e) Other objectives as established by the council.

(f) The proposed expenditure of allowances provided pursuant to Article 4 (commencing with Section 52045) of this chapter and other state or local funds available to support the school improvement program.

(g) Ongoing evaluation and modification of the school improvement plan by the council based on information regarding:

(1) The degree to which the school is meeting its improvement objectives as assessed by parents, teachers, other school personnel, and pupils.

(2) Student achievement.

(3) Improved school environment as measured by indicators such as (A) the incidence among pupils of absenteeism, suspension, expulsion, and dropouts and the incidence and costs of school violence, vandalism, and theft of school or private property while participating in school activities, (B) pupil attitudes toward school, self, and others, (C) incidence of absenteeism, resignations and requests for transfers among teachers and other school personnel, and (D) satisfaction of teachers, pupils, parents, administrators, and other school personnel with school services and decisionmaking processes.

(4) The degree to which fiscal expenditures meet the criteria of the school improvement plan.

52015.5. The information required by subdivision (g) of Section 52015 shall be available to any person upon request.

52016. In elementary schools the school improvement plan shall, in addition, include:

(a) The active involvement of parents in classroom activities and in other aspects of the school improvement program. Parents who work under the supervision of certificated personnel in ongoing delivery of educational services shall be encouraged to participate in a staff development program implemented pursuant to Section 52019.

(b) Periodic evaluation of pupils' health needs.

(c) Parent education regarding the growth and development of children.

52017. In secondary schools the school improvement plan shall, in addition, include:

(a) The availability of timely advice regarding learning options, career opportunities, and school-related problems.

(b) A range of alternatives in the size, composition, and location of learning groups, including community-based study.

(c) A process whereby pupils may demonstrate proficiency in any aspect of the curriculum in order to waive course-hour requirements and pursue an elective course of study.

52019. Each school improvement program shall include a local staff development program. Existing school-level staff development programs conducted pursuant to state and federal laws shall be consolidated with local staff development programs to the extent permitted by federal law. Local staff development programs shall:

(a) Provide opportunities for school personnel, paraprofessionals, and volunteers to participate each year in ongoing staff development activities based on a systematic identification of pupil and personnel needs at the school. Such identification shall address, but need not be limited to, the objectives specified in subdivisions (a), (b), (d), and (e) of Section 52015, Section 52016 and subdivisions (a) and (b) of Section 52017; the capacity of school personnel to implement school improvement programs; and the capacity of school site councils to monitor and evaluate programs authorized by this chapter.

(b) Be designed and implemented by classroom teachers and other participating school personnel, including the school principal, with the aid of outside personnel as necessary. Classroom teachers shall comprise the majority of any group designated to design staff development programs for instructional personnel to be established pursuant to this article. Development activities for members of the school site council shall be designed in conjunction with such members.

(c) Allow for diversity in staff development activities, including, but not limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools.

(d) Be conducted during time when is set aside throughout the

school year, including, but not limited to, time on a continuing basis when school personnel are released from their regular duties.

(e) Be evaluated and modified on a continuing basis by participating school personnel, paraprofessionals, and volunteers with the aid of outside personnel as necessary.

(f) Include the school principal and other administrative personnel as active participants in one or more staff development activities.

52020. Following approval of the school improvement plan by the governing board: (a) the school principal shall be responsible for the promotion of full and effective compliance with such plan; (b) certificated personnel shall design and implement instructional techniques consistent with objectives established by the school site council pursuant to subdivisions (a) and (b) of Section 52015.

52021. The school site council, following approval of a school improvement plan by the governing board, shall have ongoing responsibility to review with the principal, teachers, other school personnel and pupils the implementation of the school improvement program and to assess periodically the effectiveness of such program.

The council shall annually review the school improvement plan, establish a new school improvement budget consistent with subdivision (f) of Section 52015, and, if necessary, make other modifications in the plan to reflect changing improvement needs and priorities.

Upon the vote of a majority of the persons represented pursuant to subdivision (a) of Section 52012 and a majority of the persons represented pursuant to subdivision (b) of Section 52012, the council shall request that the school be excluded from participation in the following year in the school improvement program authorized by this article. In such case, the school principal shall so inform the governing board of the school district and certify that the request was made upon such vote. If the governing board accepts the request, the phase-in schedule shall be amended pursuant to subdivision (b) of Section 52011.

52022. Schools may request, as part of their school improvement plan, the provision of time during the regular school year to advise students or conduct staff development programs and receive full average daily attendance reimbursement under the provisions of Section 46300. Such time shall not exceed eight days each year for each participating staff member.

52033. Any district governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this code (except Sections 41000 to 41360, inclusive; Sections 41420 to 41423, inclusive; Sections 41600 to 41866, inclusive; Sections 41920 to 42911, inclusive; Article 3 (commencing with Section 44930) of Chapter 4 of Part 25 of Division 3 of this title, Part 26 (commencing with Section 46000) and Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27 of this division); or Title 5 of the

California Administrative Code (except Title 5 regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25 of Division 3 of this title), if such waiver is necessary or beneficial to the successful implementation of a school improvement plan. The State Board of Education may grant any such request when the facts indicate the failure to do so would hinder the implementation or maintenance of a successful school improvement program. Such action shall be taken not later than the second regular meeting of the State Board of Education following receipt of a waiver request or the request for a waiver shall be deemed approved. In the event the request for a waiver is denied, the reasons for the denial shall be communicated without delay to the applicant district and school. Such waiver shall apply only to the applicant school.

The State Board of Education shall include in its annual report to the Governor and Legislature the nature and disposition of waivers requested pursuant to this section.

52034. Participating school district governing boards shall:

(a) Review and approve or disapprove planning applications and school improvement plans consistent with, but not limited to, rules and regulations adopted by the State Board of Education pursuant to Section 52039.

No plan shall be approved unless it was developed and recommended by a school site council. In the event any plan is not approved by the governing board, specific reasons for such action shall be communicated to the council. Modifications to any school improvement plan shall be developed, recommended, and approved or disapproved in the same manner.

(b) Develop and update annually a district master plan keyed to the school improvement objectives of participating schools and submit it to the State Board of Education for approval. Such master plan shall include:

(1) A description of the district's strategies to assist schools to plan, implement, and evaluate school improvement programs.

(2) A plan for the phase-in of schools pursuant to subdivision (c) of Section 52011.

(3) Copies of all approved school improvement plans.

(4) A schedule of planning grants and implementation grants for participating schools.

(c) Adopt policies regarding the responsibilities of school site councils required by Section 52012 and establish communication procedures to ensure reasonable opportunities for each council or its representatives to meet with the governing board.

(d) In cooperation with participating schools, inventory opportunities for community-based learning and design processes by which secondary students may demonstrate proficiency in any aspect of the curriculum to pursue an elective course of study.

(e) Evaluate the effectiveness of participating schools in meeting their school improvement program objectives.

(f) Terminate implementation grants to schools which are

unsuccessful over a four-year period in substantially meeting the objectives of their approved plans pursuant to rules and regulations adopted by the State Board of Education.

(g) Provide for staff development activities jointly developed with teachers and other school personnel which reflect the goals of this chapter.

(h) Examine the patterns of school organization to determine which patterns best meet the needs of the students in the district.

(i) Ensure that allowances provided pursuant to this chapter shall be used to supplement, not supplant, existing fiscal efforts and that schools which receive such allowances shall have base expenditures comparable to nonparticipating schools.

52035. The Superintendent of Public Instruction shall:

(a) Assist districts and schools, upon request, to design, implement or evaluate school improvement programs authorized by this chapter.

(b) Ensure that procedures utilized by governing boards to approve and evaluate school improvement programs and to terminate allowances are consistent with this chapter and with standards and criteria adopted by the State Board of Education.

(c) Apportion district allowances in accordance with the provisions of Article 4 (commencing with Section 52045) of this chapter.

(d) Identify effective practices regarding, but not limited to, the objectives described in Sections 52015, 52016, and 52017 and disseminate such information to all school districts and county superintendents of schools.

(e) Conduct program and fiscal reviews to:

(1) Ensure that funds allocated pursuant to this chapter are expended for the purposes intended.

(2) Provide information helpful to local schools in meeting their school improvement objectives.

(3) Provide information to the state board regarding program implementation to be used in decisions regarding program expansion to other schools. Information regarding program implementation at a given school shall not be used in decisions regarding program expansion until such school has participated in the school improvement program for at least one and one-half school years. The superintendent shall recognize diversity in school improvement objectives and implementation strategies. In no case shall the review process be used to impose or prohibit a particular instructional program.

The majority of persons participating in such review shall be persons who are not in the employment of the district under review.

(f) Give priority in scheduling such reviews to districts and schools which have been least successful in meeting the objectives of their plans.

(g) By November 1, 1977, improve program and fiscal reviews to ensure adequate training of review teams, continuity of information

to given schools, consistency in ratings among schools and opportunities for assistance to schools in meeting their improvement program objectives.

Two or more school districts may join together to apply, or join together with one or more county superintendents of schools to apply, to provide information to local schools and the state board as described under this section. Such application shall be in a manner and form prescribed by the State Board of Education.

(h) Ensure, insofar as is practicable, that secondary schools participating in the school improvement program represent the geographic and socioeconomic diversity of secondary schools.

(i) Report annually, beginning January 1979, to the State Board of Education, Legislature, and Governor regarding the effectiveness of school improvement programs established pursuant to this chapter and staff development programs and resource centers established pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25.

Such report shall:

(1) Be performed consistent with the provisions of Sections 33400 and 33405;

(2) Contain information from a representative sample of participating districts and schools regarding:

(A) The extent to which such programs have improved pupil achievement, particularly in the areas of reading, writing, and mathematics; school and classroom environment; school organization and the instructional, human development and counseling skills of participating school personnel.

(B) Efforts to improve program and fiscal reviews conducted pursuant to Section 52035.

(C) Fiscal expenditures.

52036. The Superintendent of Public Instruction shall gather from school districts such information as is necessary to carry out responsibilities pursuant to this chapter.

52037. The superintendent shall provide for coordination of the design of school, district, state, and independent evaluations to minimize the data collection burden at the school and district levels and maximize the amount of information that can be used at all four levels.

52038. The Superintendent of Public Instruction shall contract for an independent evaluation of the school improvement programs established pursuant to this chapter and staff development programs and resource centers established pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25 of the Education Code, to be conducted during the 1977–78, 1978–79, 1979–80, 1980–81, and 1981–82 fiscal years and which shall contain, but need not be limited to, information over the five-year period regarding improved pupil achievement; school environment, including the satisfaction of parents, pupils, teachers administrators and other school personnel with school services and decisionmaking processes; school-related student social and personal development skills; adult citizenship and

career skills; improvement in professional skills of teachers, administrators, and other school personnel; and fiscal expenditures as specified in paragraphs (1) and (2) of subdivision (i) of Section 52035. The independent evaluator shall have expertise in evaluation. The evaluator and the scope and design of the independent evaluation shall be approved by the Department of Finance and the Legislative Analyst.

The independent evaluator shall submit annual progress reports to the Legislature and the Governor. The evaluator, by October 1, 1981, shall submit an interim report to include findings regarding program implementation, school environment and the improvement of professional skills of teachers and other school personnel. The evaluator, by October 1, 1982, shall submit a final report to include information regarding program implementation and outcomes, including student achievement.

52039. The State Board of Education shall:

(a) Review and approve or disapprove, in whole or in part, district master plans. Such approval process may include a review of school improvement plans, provided that a decision to approve or disapprove any school improvement plan shall be based solely upon whether such plan complies with this chapter and regulations developed by the State Board of Education pursuant to this chapter. The board shall, to the extent possible, consolidate master plan application procedures with existing application requirements for state and federal categorical aid programs in order to minimize additional paperwork requirements on school districts.

(b) Adopt rules and regulations necessary to implement the provisions of this chapter which shall include standards and criteria for:

(1) The provision of funds to participating districts to cover administrative costs and the documentation of such costs in the district master plan;

(2) The approval by governing boards of planning applications and of school improvement plans and the evaluation by governing boards of school improvement programs. Such rules and regulations shall be limited to:

(A) The extent to which at least one-half of the participating schools represent the schools within the district with the greatest numbers or concentration of educationally disadvantaged pupils.

(B) The degree to which the objectives of local improvement programs conform to objectives specified in Sections 52015, 52016, and 52017.

(C) The adequacy of locally developed evaluation procedures to ensure that school districts and the State Board of Education are able to evaluate the effectiveness of school improvement programs.

(3) The annual statewide evaluation of school improvement programs implemented under this chapter, as described in Section 52035.

(4) The termination of implementation grants for school

improvement programs upon the finding of the local governing board that a school improvement program has failed, over a four-year period, to substantially meet its declared objectives.

(c) Approve expansion of successful district school improvement programs based on:

(1) Program reviews conducted pursuant to subdivision (e) of Section 52035.

(2) Student cognitive and affective growth.

(3) Other indicators as determined by the State Board.

Beginning January, 1978, the State Board may utilize up to 10 percent of new funds appropriated annually for the purposes of this chapter to provide expansion to schools on some other basis than as specified in paragraphs (1) and (2), and shall provide for an evaluation of the use of such expansion formula.

(d) Recommend to public and private institutions of higher education modifications in admission criteria which are consistent with the improvement program authorized by this chapter.

(e) Rule on requests to waive provisions of this code or the California Administrative Code pursuant to Section 52033.

Article 4. Funding

52045. In computing allowances authorized pursuant to Section 52049, the Superintendent of Public Instruction shall reduce such allowances by the amount per pupil apportioned pursuant to Article 4 (commencing with Section 54160) of Chapter 2 of Part 29 of this division.

52049. From funds appropriated pursuant to this article the superintendent shall make allowances to districts as follows:

(a) For schools with approved planning applications, planning grants in the amount of thirty dollars ($30) per unit of average daily attendance;

(b) For schools with approved school improvement plans, implementation grants in the amount of:

(1) One hundred forty-eight dollars ($148) per unit of average daily attendance in kindergarten and grade 1, 2, and 3, or their equivalent, exclusive of average daily attendance in summer school. For the 1977–78 and the 1978–79 fiscal years, an additional amount up to the level authorized by former Section 52014 and actually expended in the 1976–77 fiscal year may also be allowed.

(2) Ninety dollars ($90) per unit of average daily attendance in grades 4 to 8, inclusive, or their equivalent, exclusive of the average daily attendance of summer school, regional occupational centers and programs, and adult classes by regular high school pupils.

(3) Sixty-five dollars ($65) per unit of average daily attendance in grades 9 to 12, inclusive or their equivalent, exclusive of the average daily attendance of summer school, regional occupational centers and programs, and adult classes by regular high school pupils.

Implementation grants shall be spent pursuant to the approved

school improvement plan as documented in the plan pursuant to subdivision (f) of Section 52015.

Allowances provided in any fiscal year but not expended in that year may be expended in subsequent fiscal years.

52049.5. Expenditures pursuant to subdivision (b) of Section 52049 shall be considered to be categorical program expenditures within the meaning of Section 52167 and therefore subject to the requirements of the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 (Article 3 (commencing with Section 52160) of Chapter 7 of this part).

SEC. 47. Article 1 (commencing with Section 52100) of Chapter 7 of Part 28 of the Education Code is repealed.

SEC. 48. Section 52168 of the Education Code is amended to read:

52168. (a) The maximum allocation allowable for the 1977–78 and subsequent school years to school districts providing instruction pursuant to Section 52165 shall not exceed the maximum allowances established by the superintendent and the district pursuant to Section 3932 of Title 5 of the California Administrative Code, for each limited-English-speaking pupil who receives instruction in a program pursuant to Section 52165. This amount per pupil shall include all state and local categorical aid funds allocated to districts providing programs under Section 52165 which are wholly or partially allocated on the basis of the educational needs of limited-English-speaking pupils. The superintendent shall ensure that funds appropriated pursuant to this article supplement and do not supplant categorical funds allocated from other local or state sources in meeting the needs of limited-English-speaking pupils.

(b) School districts may claim funds appropriated pursuant to this article for expenditures in the following categories only:

(1) The employment of bilingual-crosscultural teachers and aides; however, funds are available for employment expenditures only to the extent such personnel are employed in providing bilingual services to eligible pupils. School districts applying for these funds shall submit an assurance that personnel hired for this program only supplement and do not supplant district personnel.

(2) The purchase and development of special bilingual-bicultural teaching materials;

(3) The costs of special in-service training to develop bilingual-crosscultural instructional skills with preference given to teachers and teacher aides employed as part of the bilingual-bicultural program; and

(4) Reasonable expenses (which may include transportation-child care, meals, and training) of parent advisory groups on bilingual-bicultural education, at the school and school district level, in the course of their duties as members of the parent advisory groups. The State Board of Education shall adopt rules and regulations defining reasonable expenses.

(5) Health and auxiliary services to the extent that they meet the

direct needs of eligible pupils.

(6) Reasonable district administrative expenses allowed pursuant to regulations of the board.

(c) Nothing contained in this section shall be interpreted to authorize school districts to reduce per pupil expenditures from local, state, or federal sources for the education of limited-English-speaking pupils.

SEC. 49. Section 52169 of the Education Code is repealed.

SEC. 50. Section 52169 is added to the Education Code, to read:

52169. (a) The requirements for establishing programs mandated pursuant to subdivision (b) of Section 52165 shall be in effect beginning with the 1977–78 school year.

(b) The requirement for establishing programs mandated pursuant to subdivision (a) of Section 52165 shall be in effect as and to the extent that:

(1) Schools receive funds for such programs pursuant to Article 1 (commencing with Section 52100) of this chapter, Section 52179 or

(2) Schools receive other state and federal categorical funds which are wholly or partially allocated on the basis of the educational needs of limited- or non-English-speaking students and in amounts specified in regulations adopted by the State Board of Education, when applicable.

This subdivision shall cease to be operative on June 30, 1979.

(c) Nothing contained in this section shall be interpreted to authorize school districts to reduce per pupil expenditures from local, state, or federal sources for the education of limited-English-speaking pupils.

SEC. 51. Section 52170 of the Education Code is amended to read:

52170. Each school which receives local, state, and federal categorical aid funds as defined in subdivision (b) of Section 52169 and Section 54004.1 shall:

(a) Prepare and submit to the Superintendent of Public Instruction an assessment of the needs of the limited-English-speaking pupils in attendance in the school. It shall also list all of the local, state, and federal categorical aid funds currently available for programs to meet the needs of limited-English-speaking pupils. The number of limited-English-speaking pupils, in the school, who are not being provided with services pursuant to subdivision (a), (b), (c), or (f) of Section 52163 with such special funds shall be stated.

(b) Based on the needs assessed, the school shall prepare an application on forms provided by the Department of Education. Such application shall meet the applicable criteria of the consolidated application regulations and shall include in addition the following components: (1) teacher and aide preservice training which will identify and improve knowledge levels of each teacher and aide in teaching methodology, and bilingual-crosscultural philosophy and education, (2) an in-service training program for

teachers and aides that is linked with an institution of higher education, to the maximum extent feasible, which shall include the establishment of a liaison with a nearby institution of higher education and the solicitation of help from such institution in order to upgrade continually the bilingual-crosscultural education program, and (3) an assurance that all bilingual-crosscultural aides are provided the opportunity to enroll in a career ladder program leading toward a single- or multiple-subject teaching credential, and a certificate of competence in bilingual-crosscultural education. The district's application to the Department of Education shall include all of the individual school applications.

SEC. 52. Section 52171.5 is added to the Education Code, to read:

52171.5. Beginning in the 1977–78 fiscal year, all programs funded pursuant to Article 1 (commencing with Section 52100) of Chapter 7 of Part 28 shall be conducted under the programmatic provisions of Article 3 (commencing with Section 52160) of Chapter 7 of Part 28, and the administrative regulations adopted pursuant thereto.

Nothing in this article shall preclude the participation by an individual school district in a consortium or a cooperative in order to provide support and contract services to school districts that receive funds for the purposes of Article 3 (commencing with Section 52160) of Chapter 7 of Part 28.

SEC. 53. Section 52171.6 is added to the Education Code, to read:

52171.6. Schools which provide bilingual education programs to limited- and non-English-speaking students pursuant to Section 52165 shall report the following information to the Superintendent of Public Instruction on an annual basis:

(a) The number of limited- and non-English-speaking students served.

(b) The number of teachers who hold bilingual credentials or certificate of competency.

(c) The number of bilingual aides.

(d) The number of teachers who have waivers.

(e) The estimated expenditures for such programs.

The Superintendent of Public Instruction shall summarize such information and report annually to the Legislature during the budget review process.

SEC. 54. Section 52177 of the Education Code is amended to read:

52177. (a) Out of funds appropriated for such purposes, the superintendent shall have the duty to administer the provisions of this article. The responsibilities of the superintendent in administering this article shall include, but are not limited to, ensuring that:

(1) Funds authorized to administer, monitor, review, or evaluate the provisions of this article are separately accounted for.

(2) Sufficient bilingual personnel are available within the Department of Education with familiarity, competency, and proficiency in bilingual-crosscultural instruction to meet the needs of

this article and to administer, review, monitor, and evaluate the use of state or federal categorical aid funds allocated to local districts which have been wholly or partially allocated on the basis of the educational needs of limited-English-speaking pupils.

(3) Department of Education personnel responsible for the administration, review, monitoring, or evaluation of programs operating pursuant to this article have been sufficiently trained to carry out the intent of this article to meet the needs of the limited-English-speaking pupil.

(4) There is within the Department of Education an administrative unit responsible for bilingual-bicultural educational programs and policies through which the superintendent shall carry out his functions pursuant to this article.

(5) Applications for allocations from school districts are made in accordance with this article; to assure that districts are providing each limited-English-speaking pupil with an educational opportunity equal to that available to English-speaking pupils; and to recommend acceptable projects for approval by the board. This paragraph shall cease to be operative on June 30, 1979.

(6) A plan is developed to provide for adequate monitoring of school and school district compliance with the provisions of this article.

(7) Develop an annual evaluation of bilingual needs and programs within the state for submission to the Legislature and to the Governor. The annual evaluation shall include a state assessment of the educational needs of pupils and other persons who are limited English speaking, and of the extent to which such needs are being met from federal, state and local efforts.

SEC. 55. Section 52179 of the Education Code is amended to read:

52179. Funds appropriated pursuant to this article for programs mandated pursuant to Section 52165 shall be allocated to school districts by the Superintendent of Public Instruction in the following manner:

(a) The superintendent shall rank all school districts with limited-English-speaking pupils in kindergarten through grade 6 in order of the ratio of such pupils to all pupils in kindergarten through grade 6 in the district.

(1) Districts in the upper 50 percentile of the ranking and districts with 500 or more limited-English-speaking pupils in kindergarten through grade 6 shall receive funding for all such pupils before other districts with limited-English-speaking pupils in kindergarten through grade 6 receive funding.

(2) As additional funds become available, districts shall become eligible for funds based on their ranking percentage of limited-English-speaking pupils.

(3) Districts with limited-English-speaking pupils in grades 7 through 12 shall be eligible to receive reimbursement out of funds appropriated pursuant to this article to serve such pupils only after

all eligible pupils in kindergarten through grade 6 have been served and only if such pupils are enrolled in a program authorized pursuant to subdivision (a), (b), or (c) of Section 52163.

(b) (1) The superintendent shall allow to each school district eligible for funding pursuant to paragraph (1) of subdivision (a) amounts based upon the ratio of the number of limited-English-speaking pupils in the district in kindergarten and grades 1 through 6 to the total number of all such pupils in kindergarten and grades 1 through 6 in school districts eligible for funding pursuant to paragraph (1) of subdivision (a).

(2) After all such districts have been fully funded, the superintendent shall allow funds to districts eligible for funding pursuant to paragraph (2) of subdivision (a) in the same manner.

(3) After all such districts have been fully funded, the superintendent shall allow to districts with limited-English-speaking pupils in grades 7 through 12 amounts based upon the ratio of the number of limited-English-speaking pupils in the district in grades 7 through 12 to the total number of limited-English-speaking pupils in grades 7 through 12 in the state.

(c) Beginning with the 1977–78 school year and each school year thereafter until all eligible schools are served, priority for eligibility within districts shall be:

(1) Elementary schools with the largest percentage of limited-English-speaking pupils and which receive federal or state categorical resources for primary grades and which have an approved school level plan.

(2) Elementary schools with the largest percentage of limited-English-speaking pupils and which are scheduled to receive federal or state categorical resources for primary grades in the succeeding school year.

(3) Elementary schools with the largest percentage of limited-English-speaking pupils but which are not scheduled to receive federal or state categorical resources for primary grades in the succeeding school year.

(4) First priority for funding in paragraphs (1) through (3) of this subdivision shall be for pupils in kindergarten and grades 1 through 3.

(5) Schools which receive funding for kindergarten and grades 1 through 3 shall have first priority in succeeding school years for funds for pupils in grades 4, 5, and 6, to be phased in at the rate of one grade per school year.

(d) This section shall be operative only until June 30, 1979, and as of such date is repealed.

SEC. 56. Chapter 1 (commencing with Section 54000) of Part 29 of the Education Code is repealed.

SEC. 56.5. Chapter 1 (commencing with Section 54000) is added to Part 29 of the Education Code, to read:

CHAPTER 1. EDUCATIONALLY DISADVANTAGED YOUTH PROGRAMS

Article 1. General Provisions

54000. It is the intent of the Legislature to provide quality educational opportunities for all children in the public schools. The Legislature recognizes that a wide variety of factors such as low family income, pupil transiency rates, and large numbers of homes where a primary language other than English is spoken have a direct impact on a child's success in school and personal development, and require that different levels of financial assistance be provided districts in order to assure a quality level of education for all pupils.

54001. From the funds appropriated by the Legislature for the purposes of this chapter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this chapter and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing education programs for pupils who qualify economically and educationally in preschool, kindergarten, or any of grades 1 through 12, inclusive. Nothing in this chapter shall in any way preclude the use of federal funds for educationally disadvantaged youth. Districts which receive funds pursuant to this chapter shall not reduce existing district resources which have been utilized for programs to meet the needs of educationally disadvantaged students.

54002. State educationally disadvantaged youth apportionments allowable to school districts shall be determined by the following terms.

(a) A ratio of "potential impact of bilingual-bicultural pupils" determined by dividing the percent of pupils in the district with Spanish and Asian surnames, and Indian pupils, as determined by the 1973–74 ethnic survey conducted by the Department of Education, by the statewide average percentage of such pupils for unified, elementary, or high school districts, as appropriate.

(b) A ratio of the district's "index of family poverty," defined as the district's Elementary and Secondary Education Act, Title 1 entitlement of 1975–76, divided by its average daily attendance for 1974–75 in grades 1 through 12, or any thereof maintained, divided in turn by the state average index of family poverty for unified, elementary, or high school districts, as appropriate.

(c) A ratio of the district's "index of pupil transiency," computed as the difference between 1 and the district's average daily attendance divided by its total annual enrollment for 1974–75 divided by the state average index of pupil transiency for unified, elementary, or high school districts, as appropriate.

The district's total maximum apportionment under this chapter shall be determined by computing the product of (1) one-third the sum of the above three terms, except that if the resulting figure is higher than 2, the resulting figure shall be deemed to be 2, and if the

resulting figure is lower than 0.9 no entitlement shall be computed for such a district (2) the number of pupils receiving aid for dependent children support as of January 1975; and (3) a constant amount as the Superintendent of Public Instruction may determine so that the sum of all allocations will not exceed the funds appropriated by the Legislature for the purposes of this section.

This section shall remain operative only until July 1, 1979, and as of that date is repealed.

54003. Under rules and regulations established by the State Board of Education, participating school district governing boards shall evaluate the effectiveness of participating schools and shall terminate entitlements to schools which are unsuccessful over a four-year period in substantially meeting their objectives of the approved school site plan, as defined in Section 54004.1.

It is the intent of the Legislature that to the extent feasible the State Board of Education develop rules and regulations that will assure consistency between subdivision (f) of Section 52034 and this section.

54004. The Superintendent of Public Instruction shall apportion the funds available for programs in accord with procedures specified in this chapter and policies which may be adopted by the State Board of Education. Funds shall be allocated to each district within its entitlement based upon a plan submitted by the district to the Superintendent of Public Instruction, and approved by the State Board of Education. The plan shall include (1) an explicit statement of what the district seeks to accomplish, (2) a description of the program and activities designed to achieve these purposes, and (3) a planned program of annual evaluation, including a statement of the criteria to be used to measure the effectiveness of the program. This section will have no effect after July 1, 1979.

54004.1. For fiscal year 1979–80 and each year thereafter, the Superintendent of Public Instruction shall apportion funds available for programs in accord with procedures specified in this chapter and rules and regulations established by the State Board of Education. Funds shall be allocated to each district within its entitlement based upon the following which shall be submitted to the Superintendent of Public Instruction and approved by the State Board of Education:

(a) A district allocation plan developed pursuant to Sections 54004.3, 54004.5, and 54004.7.

(b) A school plan for each school receiving funds allocated pursuant to Sections 54004.5 and 54004.7 which shall include, but not be limited to:

(1) An explicit statement of what the school seeks to accomplish.

(2) A description of the program and activities designed to achieve these purposes.

(3) A planned program of annual evaluation, including a statement of criteria to be used to measure the effectiveness of the program.

(c) Schools which provide programs pursuant to subdivision (a)

of Section 52165 shall include such programs in the school plan.

54004.3. It is the intent of the Legislature to provide all districts receiving impact aid with sufficient flexibility to design and administer an intra-district allocation system for impact aid which reflects the distribution and the needs of the needy population and assures the provision of services to students traditionally served by the educationally disadvantaged youth programs and bilingual education programs.

54004.5. Under the rules and regulations established by the State Board of Education, school districts receiving entitlements for the 1979–80 year and thereafter under this chapter shall develop and submit to the Department of Education for approval an intra-district allocation plan for distribution of impact aid to schools with high concentrations of pupils in need. Such intra-district allocation plans shall include, but not be limited to:

(a) A method for determining the eligibility of schools to receive impact aid based on the following factors which shall be given equal weight in the allocation of funds:

(1) The number or percentage of limited- and non-English-speaking youth at individual school sites.

(2) The number or percentage of students from low-income families at individual school sites as identified using data sources such as Aid to Families with Dependent Children, Federal Free Lunch, assessed value of single family residences, and census data.

(3) The number or percentage of students with low academic achievement at individual school sites. In the development of its allocation plan, an eligible district may employ, other factors unique to the district which further identify numbers or concentrations of pupils in need of impact aid at individual school sites.

(b) A method for determining the minimum and maximum levels of service expressed as an average amount per pupil, for schools scheduled to receive impact aid.

54004.7. The intradistrict allocation plan shall assure adequate support to any school to provide programs appropriate to the educational needs of limited- and non-English-speaking pupils as required by Section 52165 except that programs funded under Article 1 (commencing with Section 52100) of Chapter 7 of Part 28 in fiscal year 1978–79 in grades 7 to 12, inclusive, shall continue to receive appropriate funding if the governing board determines that the program is of sufficient quality to warrant such funding.

54005. The State Board of Education shall adopt regulations setting forth the standards and criteria to be used in the administration, monitoring, evaluation, and dissemination of programs submitted for consideration.

54006. The Superintendent of Public Instruction shall submit annually to the Governor and to each house of the Legislature a report evaluating the programs established pursuant to this chapter, together with his recommendations concerning whether the same should be continued in operation.

The evaluation submitted to the Legislature pursuant to this section shall contain information concerning: (a) the total number of students at each grade level participating in the programs funded under this chapter, and (b) the effectiveness of the programs funded under this chapter based to the maximum extent possible on objective measurements.

54007. In approving projects pursuant to this chapter, the Superintendent of Public Instruction, with the concurrence of the Director of Finance, may, upon the request of the applicant district, designate a portion of the district's entitlement which may be expended for noninstructional costs, including, but not limited to, costs for vandalism, security, and insurance. In no event, shall the total amount of funds designated for such purposes for all districts in the state exceed two million dollars ($2,000,000).

54008. Expenditures pursuant to this chapter shall be considered to be categorical program expenditures within the meaning of Section 52165 and therefore subject to the requirements of the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 (Article 3 (commencing with Section 52160) of Chapter 7 of Part 28 of Division 4 of this title).

Article 2. Economic Impact Aid

54020. It is the intent of the Legislature that funds authorized pursuant to this chapter replace, as of July 1, 1979, funds previously authorized to support educationally disadvantaged youth programs and bilingual education. To that end, the purpose of this article is to provide a method of impact aid allocation to be utilized by the Superintendent of Public Instruction, which will allow efforts initiated under those programs to continue and expand so long as need exists while previously unserved and underserved populations are provided with adequate aid.

54021. The Legislature finds that in order to allow districts sufficient time to plan for programs authorized pursuant to this chapter, notification of entitlements shall be made to districts several months prior to actual disbursement of funds. The Legislature, therefore, shall announce its intent to appropriate funds for this chapter at least one year in advance of the normal budgetary appropriation process.

The Superintendent of Public Instruction shall calculate district entitlements for any fiscal year in December of the prior fiscal year utilizing the latest information available at that time and assuming the appropriation announced by the Legislature will be available for the fiscal year in question. The Superintendent of Public Instruction shall notify districts of their expected entitlements no later than February 1 of the prior fiscal year.

This section shall become operative for calculation of district entitlements for the 1979–80 fiscal year, and shall be utilized in calculation of entitlements for every fiscal year thereafter.

54022. For entitlements of the 1979–80 fiscal year and each year thereafter, the Superintendent of Public Instruction shall calculate state gross need by multiplying the state index of need by the average excess cost of education for impact aid.

The state index of need shall be: (1) the average of the estimated number of children aged 5–17 in poverty as measured by criteria used to define eligibility for Aid to Families with Dependent Children as applied to state or federal income tax data; (2) the estimated number of children age 5 to 17 in poverty as measured by criteria used to identify families in poverty for purposes of the United States census as applied to state or federal income tax data.

The average excess cost of education for impact aid shall be four hundred forty dollars ($440) in the 1979–80 fiscal year and shall be adjusted for 6 percent inflation each year thereafter. The calculation of state gross need shall be reviewed every two years by the Superintendent of Public Instruction, the Director of Finance, and the Legislative Analyst.

54023. For each eligible school district, the Superintendent of Public Instruction shall compute a share of the state gross need defined in Section 54022. To determine such shares he shall, for each district, compute the product of:

(a) A factor which shall be one-third the sum of the following three terms which shall be computed utilizing data from the three most recently available fiscal years:

(1) A ratio of "potential impact of bilingual-bicultural pupils" determined by dividing the percent of pupils in the district with Spanish and Asian surnames, and Indian pupils, as determined by the most recent ethnic survey conducted by the Department of Education, by the statewide average percentage of such pupils for unified, elementary, or high school districts, as appropriate.

(2) A ratio of the district's "index of family poverty," defined as the average of; the number of school age children in poverty as determined by the United States census and the number of school age children in families receiving aid for dependent children support, divided by its average daily attendance, divided in turn by the state average index of family poverty for unified, elementary, or high school districts, as appropriate.

(3) A ratio of the district's "index of pupil transiency," computed as the difference between 1 and the district's average daily attendance divided by its total annual enrollment, divided by the state average index of pupil transiency for unified, elementary, or high school districts, as appropriate.

(b) The district's average of; the number of school age children in poverty as determined by the United States census and the number of school age children in families receiving aid for dependent children support.

(c) A constant figure as determined by the Superintendent of Public Instruction so that the sum of all district shares will not exceed the state gross need.

54024. The Superintendent of Public Instruction shall calculate available resources for each district by summing funding entitlements allowed each district from the following sources:

(a) Base impact aid computed pursuant to Section 54028.

(b) Part A of Title I of the Elementary and Secondary Education Act of 1965.

(c) Section 54030.

54025. If, in any year, a district's share of gross need, calculated pursuant to Section 54023 exceeds resources available to that district, as calculated in Section 54024, the Superintendent of Public Instruction shall subtract the district's sum of available resources from its share of gross need and the difference shall be considered the district's "unmet need" except that unmet need shall be zero for any district with a factor of less than 0.35 as calculated in subdivision (a) of Section 54023.

The Superintendent of Public Instruction shall then compute what portion of all unmet need is represented by the unmet need of each district.

54026. The Superintendent of Public Instruction shall compare each district's share of state gross need as calculated in Section 54023 to that district's base impact aid for the prior fiscal year. When the district's base impact aid for the prior fiscal year exceeds its share of state gross need, the district's base impact aid shall be reduced to equal its share of state gross need but shall not be reduced more than 15 percent of its base impact aid for the prior fiscal year.

54027. New impact aid in any fiscal year shall be allocated to districts from the funds available after allocation of base impact aid, and inflation adjustments and in direct proportion to the district's portion of total unmet need, as calculated in Section 54025.

54028. For the 1979–80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall apportion district entitlements for impact aid as follows:

(a) He shall apportion to each district its base impact aid as adjusted pursuant to Section 54026;

(b) He shall then apportion inflation adjustment for districts whose entitlements are not reduced pursuant to Section 54026;

(c) He shall then apportion such sums as are computed pursuant to Section 54027.

The total entitlements so derived shall be considered base impact aid in the following fiscal year.

Such amounts as are received by districts in the 1978–79 fiscal year pursuant to Section 54002 and Article 3 (commencing with Section 52160) of Chapter 7 of Part 28 of this division shall be considered base impact aid for the purposes of making entitlements for the 1979–80 fiscal year.

Article 3. Supplemental Allowances

54030. (a) For the 1977–78 fiscal year and each year thereafter, the Superintendent of Public Instruction shall:

(1) Determine those districts which have a factor of 1.25 or more pursuant to Section 54002 utilizing data used to compute entitlements for the 1976–77 fiscal year under this chapter.

(2) Multiply the district's factor by the aid to families with dependent children count of the district for the 1975–76 year. He shall total the result statewide for districts identified in paragraph (1) and shall divide such sum into the amount appropriated by the Legislature for purposes of this section for the fiscal year in question.

(3) Allocate to all districts identified in paragraph (1) an amount computed by multiplying the per unit amount in paragraph (2) by the district's factor, by the district's aid to families with dependent children count for the 1975–76 fiscal year. Such amounts shall be in addition to other apportionments computed under this chapter.

(b) If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, such allowances shall be reduced proportionately.

Article 4. Special Allocations to a Limited Number of Districts

54040. The Legislature recognizes that because of insufficient data, the formula for allocation of economic impact aid funds will not provide sufficient resources to a limited number of school districts with high concentrations of limited- and non-English-speaking pupils and pupils in poverty to ensure funding for appropriate educational services.

54041. (a) After calculating allocations pursuant to Article 2 (commencing with Section 54020) of this chapter each year, the Superintendent of Public Instruction shall review the estimated allocations for the next three years. He shall make this review to identify a limited number of districts with high concentrations of economic impact aid pupils, especially limited- and non-English-speaking pupils, which under the three-year projection will either not receive any funds or insufficient funds to meet the excess costs of serving impact aid pupils. The Superintendent of Public Instruction shall identify the districts which are eligible for special allocations by reviewing:

(1) District information concerning the number and concentration of pupils in poverty.

(2) District level information concerning the number and concentration of limited- and non-English-speaking pupils.

(3) Other district level information which he determines to be appropriate.

(b) He shall then notify the limited number of districts which meet the criteria specified in paragraphs (1), (2), and (3) that they will receive special allocations to meet the excess costs of serving

impact aid pupils by filing an application for the amount of funds he has determined will be needed.

(c) District application for special allocation funds shall be included in the application procedure adopted by the State Board of Education pursuant to Section 54005.

(d) Each year, the Superintendent of Public Instruction shall notify the Joint Legislative Budget Committee and the Department of Finance of methodology used to determine special allocations and the districts which receive such funding.

Article 5. Funding

54050. There is hereby appropriated from the General Fund to Section A of the State School Fund the sum of one hundred eighteen million one hundred forty-two thousand dollars ($118,142,000) for the purposes of educationally disadvantaged youth program apportionments pursuant to Section 54002 for the 1978–79 fiscal year except for an amount which equals seven million seventy-two thousand five hundred thirty-six dollars ($7,072,536) which shall be allocated pursuant to Section 78 of Chapter 323 of the Statutes of 1976.

54051. There is hereby appropriated from the General Fund the sum of nine million one hundred forty-six thousand five hundred thirty-six dollars ($9,146,536) for use in the 1978–79 fiscal year for the purposes of Article 1 (commencing with Section 52100) of Chapter 7 of Part 28.

54052. There is hereby appropriated from the General Fund the sum of three million one hundred eighty thousand dollars ($3,180,000) for use in the 1978–79 fiscal year for the purposes of Article 3 (commencing with Section 52160) of Chapter 7 of Part 28.

54053. There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the purposes of economic impact aid, for allocation by the Superintendent of Public Instruction pursuant to Article 2 (commencing with Section 54020) of this chapter:

(a) For the 1979–80 fiscal year and each fiscal year thereafter:

Program maintenance	$132,104,000
Inflation	7,936,000
Program expansion	40,000,000

(b) It is the intent of the Legislature that subject to future budget acts and the availability of funds, additional funding for the purposes of this section shall be:

For the 1980–81 fiscal year	$25,800,000
For the 1981–82 fiscal year	53,149,000

54054. There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years for the purposes of Section 54030:

(a) For the 1977–78 fiscal year	$5,700,000
(b) For the 1978–79 fiscal year	

Program maintenance $5,700,000
Inflation 342,000

(c) For the 1979–80 fiscal year and each fiscal year thereafter:

Program maintenance $6,042,000
Inflation 363,000

(d) It is the intent of the Legislature that subject to future budget acts and the availability of funds, additional funding for the purposes of this section shall be:

For the 1980–81 fiscal year $384,000
For the 1981–82 fiscal year 791,000

54056. There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years for the purposes of Section 54041:

(a) For the 1979–80 fiscal year and each fiscal year thereafter $5,000,000

(b) It is the intent of the Legislature that subject to future budget acts and the availability of funds, additional funding for the purposes of this section shall be:

For the 1980–81 fiscal year $300,000
For the 1981–82 fiscal year 618,000

54057. There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years for the purposes of Section 54060:

(a) For the 1977–78 fiscal year $64,000,000
(b) For the 1978–79 fiscal year 40,800,000
(c) For the 1979–80 fiscal year 43,600,000

54058. There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years for the purposes of Section 54061:

(a) For the 1977–78 fiscal year $7,700,000

(b) For the 1978–79 fiscal year

Program maintenance $7,700,000
Inflation 462,000

(c) For the 1979–80 fiscal year and each fiscal year thereafter

Program maintenance $8,162,000
Inflation 490,000

(d) It is the intent of the Legislature that subject to future budget acts and the availability of funds, additional funding for the purposes of this section shall be:

For the 1980–81 fiscal year $519,000
For the 1981–82 fiscal year 1,069,000

54059. (a) There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years, for allocation by the Superintendent of Public Instruction for purposes of this chapter, to insure that no district shall receive less than its anticipated entitlement for program funds pursuant to Section 85.5 of Chapter 323 of the Statutes of 1976:

For fiscal year 1977–78 ..... $1,534,000
For fiscal year 1978–79

Program maintenance $1,534,000
Inflation 92,000

(b) No district which is entitled to funds pursuant to Section 54060 shall also be entitled to funds from this appropriation.

SEC. 57. Chapter 1.5 (commencing with Section 54060) is added to Part 29 of the Education Code, to read:

CHAPTER 1.5. GENERAL AID TO DISTRICTS

54060. (a) For the 1977–78 fiscal year and each year thereafter the Superintendent of Public Instruction shall:

(1) Identify the unified school districts which received state allocations during the 1976–77 fiscal year pursuant to Section 54002, and determine those districts which have more than 12,022 students in average daily attendance in fiscal year 1975–76, and either of the following criteria:

(A) The product of the district factor determined pursuant to Section 54002 and the count for the 1975–76 fiscal year of children from families receiving Aid to Families with Dependent Children is equal to or greater than 3,731, or

(b) The district's index of family poverty determined pursuant to subdivision (b) of Section 54002 is greater than 1.5 and the total minority population in the district determined pursuant to the Racial and Ethnic Survey of 1973 is greater than 55 percent.

(2) For districts so identified, multiply the factor determined pursuant to Section 54002 by the district's aid to families with dependent children count for the 1975–76 fiscal year by the factor computed pursuant to subdivision (b) of Section 42238 and by a factor of 1.1 for districts having an average daily attendance greater than 58,800 in the 1975–76 fiscal year. He shall total the result for such districts and shall divide such sum into the amount appropriated by the Legislature for the purposes of this section for the fiscal year in question.

(3) Allocate to such districts an amount computed by multiplying the per unit amount in paragraph (2) by the district's a factor, by the district's aid to families with dependent children count for the 1975–76 fiscal year. Such amounts shall be in addition to other amounts computed under this chapter.

(b) If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, such allowances shall be reduced proportionately.

(c) The allowance prescribed by this section shall be deposited in the general fund of each recipient district and may be used for any purpose for which other funds so deposited may be used and shall not be included in the computation of the revenue limit of the district.

This section shall remain operative until June 30, 1980, and as of such date is repealed.

54061. (a) For the 1977–78 fiscal year and each year thereafter, the Superintendent of Public Instruction shall:

(1) Determine those districts which have factor of 1.25 or more pursuant to Section 54002 utilizing data used to compute entitlements for the 1976–77 fiscal year under this chapter.

(2) Allocate to such districts an amount not to exceed 10 percent of such districts' 1975–76 entitlements. Such district allocations shall be adjusted for inflation at the rate of 6 percent in the 1978–79 fiscal year and the 1979–80 fiscal year. Such amounts shall be in addition to other apportionments computed under this chapter.

(b) The amount allowed pursuant to this section is limited to the amount appropriated by the Legislature for purposes of this section in any fiscal year, and if the sum appropriated is not sufficient to make the allowances specified by this section, such allowances shall be reduced proportionately.

(c) The allowances prescribed by this section shall be deposited in the general fund of each recipient district and may be used for any purpose for which other funds so deposited may be used and shall not be included in the computation of the revenue limit of the district.

SEC. 58. Section 60246 of the Education Code is amended to read:

60246. The State Controller shall during each fiscal year, commencing with fiscal year 1977–1978, transfer from the General Fund of the state to the State Instructional Materials Fund, an amount of twelve dollars and fifty-eight cents ($12.58) per pupil in average daily attendance in the public and nonpublic elementary schools during the preceding fiscal year, as certified by the Superintendent of Public Instruction, except that this amount shall be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. For purposes of this section, average daily attendance in the nonpublic schools shall be the enrollment reported pursuant to Section 33190.

For the 1977–78 fiscal year the ten million dollars ($10,000,000) increase to the Instructional Materials Fund provided by the amendment to this section enacted in 1977 shall be allocated without action of the State Board of Education for the purposes of subdivisions (b) and (d) of Section 60241 and subdivisions (a) and (c) of Section 60242.

SEC. 59. Section 16130 of the Government Code is repealed.

SEC. 60. Section 71 of Chapter 323 of the Statutes of 1976 is amended to read:

Sec. 71. (a) The sum of six million dollars ($6,000,000) is appropriated from the General Fund to Section A of the State School Fund for apportionment by the Superintendent of Public Instruction to school districts which receive only basic aid. Such apportionment shall be computed as follows:

(1) He shall, in the 1976–77 fiscal year, apportion an amount to each district sufficient to equal 80 percent of the foundation program, less one hundred twenty-five dollars ($125), for each unit

of its average daily attendance credited to a county-operated regional occupational center or program in the 1976–77 fiscal year, up to the number of units of average daily attendance credited to such program in the 1975–76 fiscal year.

(2) He shall, in the 1977–78 fiscal year, apportion an amount to each district sufficient to equal the following percentages of the foundation program, less one hundred twenty dollars ($120), for each unit of its average daily attendance credited to a county-operated regional occupational center or program in the 1977–78 fiscal year, up to the number of units of average daily attendance credited to such program in the 1975–76 fiscal year, according to the number of units of average daily attendance in the county-operated regional occupational center or program:

Average daily Attendance	Percentage
15 or less	80
16 to 50	70
51 to 75	60
76 to 100	50
over 100	40

(3) He shall, in the 1978–79 fiscal year, apportion the same amounts as authorized in the 1977–78 fiscal year except that there shall be no apportionments pursuant to this section for districts with more than 100 units of average daily attendance in county-operated regional occupational centers or programs.

SEC. 61. Section 84 of Chapter 323 of the Statutes of 1976 is repealed.

SEC. 62. Section 85.5 of Chapter 323 of the Statutes of 1976 is repealed.

SEC. 63. Section 1 of Chapter 856 of the Statutes of 1976 is repealed.

SEC. 63.5. Section 9 of Chapter 856 of the Statutes of 1976 is repealed.

SEC. 64. Section 36 of Chapter 991 of the Statutes of 1976 is repealed.

SEC. 65. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the General Fund for transfer to, and in augmentation of, Item 300 of the Budget Act of 1977, for the purpose of preparing and distributing the framework for assessing pupil progress required by Section 51217 of the Education Code.

SEC. 66. There is hereby appropriated the sum of thirteen million nine hundred thousand dollars ($13,900,000) in augmentation of Item 285 of the Budget Act of 1977 provided that the Superintendent of Public Instruction allocates entitlements in accordance with Sections 15.1 and 86 of Chapter 323 of the Statutes of 1976.

SEC. 67. All funds received by districts pursuant to Section 66 of this act, and Sections 54054 and 54059 of the Education Code, which districts were originally scheduled to receive funds pursuant to Section 86 of Chapter 323 of the Statutes of 1976, shall first be used for bilingual education programs in schools which do not receive state funds for bilingual education programs.

SEC. 69. There is hereby appropriated from the General Fund in the State Treasury for transfer to, and in augmentation of, Item 300 of the Budget Act of 1977, for the administrative costs the sum of one hundred twenty-five thousand dollars ($125,000) for the fiscal year 1977–78 to fund the independent evaluation required by Section 52038 of the Education Code.

SEC. 70. There is hereby appropriated from the General Fund in the State Treasury to the Department of Education the sum of two hundred fifty thousand dollars ($250,000) for the fiscal year 1978–79, one hundred seventy-five thousand dollars ($175,000) for the fiscal year 1979–80, two hundred fifty thousand dollars ($250,000) for the fiscal year 1980–81, and two hundred thousand dollars ($200,000) for the fiscal year 1981–82 to fund the independent evaluation required by Section 52038 of the Education Code.

SEC. 71. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund in the State Treasury for transfer to, and in augmentation of, Item 300 of the Budget Act of 1977, for purposes of conducting a racial and ethnic survey in the 1977–78 fiscal year.

SEC. 72. There is hereby appropriated from the General Fund in the State Treasury for transfer to, and in augmentation of, Item 300 of the Budget Act of 1977, the sum of one hundred fifty thousand dollars ($150,000) for the fiscal year 1977–78 to fund the independent evaluation required by Section 56355 of the Education Code.

This section shall become operative only if Assembly Bill No. 1250 of the 1977–78 Regular Session is enacted and becomes effective.

SEC. 73. There is hereby appropriated from the General Fund in the State Treasury to the Department of Education the sum of two hundred fifty thousand dollars ($250,000) for the fiscal year 1978–79 and two hundred thousand dollars ($200,000) for each of fiscal years 1979–80 through 1981–82 to fund the independent evaluation required by Section 56355 of the Education Code.

This section shall become operative only if Assembly Bill 1250 of the 1977–78 Regular Session is enacted and becomes effective.

SEC. 74. There is hereby appropriated from the General Fund to the Superintendent of Public Instruction the following amounts:

(a) For the purposes of Article 1 (commencing with Section 44670) of Chapter 3 1 of Part 25 of the Education Code, the following amounts:

1978–79	$550,000
1979–80	900,000
1980–81	1,260,000

1981–82	1,620,000
1982–83 and fiscal years thereafter	2,000,000

(b) For the purposes of Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code, the following amounts:

1978–79	$500,000
1979–80	750,000
1980–81	1,000,000
1981–82	1,250,000
1982–83 and fiscal years thereafter	1,500,000

It is the intent of the Legislature that pursuant to future budget acts and the availability of funds, the amounts allocated pursuant to this subdivision shall be increased by the amount of funding received from Public Law 94-482, if any, up to a maximum total allocation of twice the specified amount.

(c) For the Department of Education for administration of the provisions of Chapter 3.1 (commencing with Section 44670) of Part 25 of the Education Code, the sum of $150,000 in each fiscal year commencing with fiscal year 1977–78.

This section shall become operative only if Assembly Bill 551 of the 1977–78 Regular Session is enacted.

SEC. 75. (a) The amount appropriated by Item 283 of the Budget Act of 1977 (Ch. 219, Stats. 1977), is hereby reappropriated for the purposes of making allowances for kindergarten and grades 1 to 6, inclusive, pursuant to Article 4 (commencing with Section 52045) of Chapter 6 of Part 28 of the Education Code. In addition, the following amounts are appropriated from the General Fund to Section A of the State School Fund for such purposes:

Fiscal year	Amount
1977–78	$12,400,000
1978–79	128,397,000
1979–80 and each fiscal year thereafter	138,297,000

(b) There is hereby appropriated from the General Fund to the State School Fund for the purposes of making allowances for grades 7 to 12, inclusive, pursuant to Article 4 (commencing with Section 52045) of Chapter 6 of Part 28 of the Education Code:

Fiscal year	Amount
1977–78	$1,500,000
1978–79	9,200,000
1979–80 and each fiscal year thereafter	17,000,000

(c) The Superintendent of Public Instruction is authorized to transfer up to $5,000,000 between the purposes of (a) and (b), subject

to Section 28 of the Budget Act of 1977 (Ch. 219, Stats. 1977).

SEC. 76. The Legislative Analyst shall during the 1977–78 fiscal year contract for a three-year independent evaluation of programs operated pursuant to the Chacon-Moscone Bilingual-Bicultural Education Act of 1976. The independent evaluator shall have expertise in bilingual evaluation, have bilingual personnel, and shall be selected through a competitive bidding process. The design and scope of the evaluation and the evaluator shall be approved by the Department of Education and the Department of Finance.

The evaluation shall examine, but need not be limited to:

(a) The nature and extent of bilingual instructional services provided to limited- and non-English-speaking children, including an estimate of the financial resources from state, federal, and local sources to support bilingual instruction.

(b) The nature, extent and quality of census procedures at the state and local level in identifying limited- and non-English-speaking children as provided in Sections 52164 and 52103 of the Education Code.

(c) The extent and quality of in-service training programs for teachers and aides employed in the bilingual program.

(d) District efforts to recruit, hire, and retain bilingual certificated personnel.

(d) The effectiveness of alternative bilingual education approaches including alternatives in staffing patterns, including the use of paraprofessionals.

Effectiveness shall be measured by:

(1) Student outcome, including reading comprehension, speaking, and computation skills in English and in the dominant language of the pupil to the extent assessment instruments are available.

(2) The satisfaction of students, parents, teachers, aides, and administrators with bilingual instructional services.

The independent evaluator shall submit an annual report to the Legislature, the Governor, the State Board of Education, and the Superintendent of Public Instruction.

During the 1977–78 and 1978–79 fiscal years, the evaluator shall submit a progress report on items (a) to (d), inclusive. During the 1979–80 fiscal year, the evaluator shall submit a final report, including reports on items (a) to (e), inclusive.

SEC. 76.5. There is hereby appropriated from the General Fund in the State Treasury to the Joint Legislative Budget Committee the sum of seventy-five thousand dollars ($75,000) for the fiscal year 1977–78, one hundred thousand dollars ($100,000) for the fiscal year 1978–79, and one hundred twenty-five thousand dollars ($125,000) for the fiscal year 1979–80 to fund the independent evaluation required by Section 76 of this act.

SEC. 77. (a) The sum of thirty million dollars ($30,000,000) is hereby appropriated from the General Fund to Section A of the State School Fund for allocation to the Superintendent of Public

Instruction to make the allowances prescribed by this section.

(b) On forms prescribed by the Superintendent of Public Instruction, each school district may submit a report of excess costs, not to exceed 10 percent of the foundation program, for the prior fiscal year calculated as follows:

(1) Home-to-school transportation costs, less state allowances for such purposes, which exceeds 3.04 percent of an elementary school district's total base revenue limit, 2.15 percent of a high school district's total base revenue limit, or 1.83 percent of a unified school district's base revenue limit.

(2) Costs for fire, theft, and liability insurance which exceeds 0.83 percent of an elementary school district's total base revenue limit, 0.77 percent of a high school district's total base revenue limit, or 0.56 percent of a unified school district's total base revenue limit.

(3) Costs of objects of expenditure #5500 of the California School Accounting Manual, which is limited to utility costs for water, fuel, light, power, and waste disposal, which exceeds 3.22 percent of an elementary school district's total base revenue limit, 3.56 percent of a high school district's total base revenue limit, or 3.02 percent of a unified school district's total base revenue limit.

(4) Costs of maintenance, as defined in the program classification of the California School Accounting Manual, which exceed 4.18 percent of an elementary school district's total base revenue limit, 4.22 percent of a high school district's total base revenue limit, and 4.51 percent of a unified school district's total base revenue limit.

(c) The Superintendent of Public Instruction shall allow to each school district one dollar ($1) for each two dollars ($2) of identified excess costs as calculated in subdivision (b). However, if, in any year, a district's costs for any category exceeds its prior year's costs by more than the percentage increase in the foundation program, the Superintendent of Public Instruction shall approve the difference between the current year's costs and the prior year's costs increased by the percentage increase in the foundation program. Such additional costs shall only be approved if they result from factors beyond the control of the governing board of the school district.

(d) If the sum appropriated pursuant to subdivision (a) is insufficient to make the allowances prescribed, the Superintendent of Public Instruction shall reduce such allowances proportionately.

(e) The Superintendent of Public Instruction shall adopt rules and regulations for implementation of this section

(f) This section shall remain in effect until July 1, 1978. Prior to that date, the Department of Education shall report to the Legislature on the impact of this section on school districts.

SEC. 78. The sum of one million three hundred fifty thousand dollars ($1,350,000) is hereby appropriated from the General Fund for transfer to, and in augmentation of, Item 300 of the Budget Act of 1977 (Ch. 219, Stats. 1977), or the administrative costs of implementing this act.

SEC. 80. Except as otherwise provided in this act, and

notwithstanding Sections 2229, 2230, and 2231 of the Revenue and Taxation Code, there shall be no additional reimbursement pursuant to this act nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local agencies by this act are either incurred as a part of their normal operating procedures or are funded through other appropriations in this act.

SEC. 81. Commencing with the 1978–79 fiscal year, the sum of two hundred twenty-four thousand dollars ($224,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to districts maintaining junior and senior high schools pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such districts for costs incurred by them in notifying pupils and the parents and guardians thereof pursuant to Section 51216 of the Education Code.

SEC. 82. Commencing with the 1979–80 fiscal year, the sum of forty-six thousand dollars ($46,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to elementary school districts maintaining grades 6 or 8 pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such districts for costs incurred by them in notifying pupils and the parents and guardians thereof pursuant to Section 51216 of the Education Code.

SEC. 83. Section 47 of this act shall become operative on June 30, 1979.

SEC. 83.5. Sections 19, 20, 21, 22, 23, 25, 28, 32, 33, 34, 35, 36, and 37 of this act shall become operative on July 1, 1978.

SEC. 84. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 85. Sections 6, 7, 8, 9, 10, 14, 15, 27, 28.5, 29, 40 and 41 of this act shall not become operative unless and until the Legislature authorizes them to be effective through action in the Budget Act or otherwise. The Legislature may not take actions through the Budget Act which make such sections operative prior to the 1979–80 fiscal year.

SEC. 85.5. In addition to all other funds appropriated and transferred to Section A of the State School Fund, the Controller shall transfer from the General Fund to Section A of the State School Fund the sum of ten million dollars ($10,000,000) in fiscal year 1979–80, fifty-seven million dollars ($57,000,000) in fiscal year 1980–81, and one hundred eight million dollars ($108,000,000) in fiscal year 1981–82 and each fiscal year thereafter, if the Legislature authorizes Sections 6, 7, 8, 9, 10, 14, 15, 27, 28.5, 29, 40, and 41 of this act to become operative.

SEC. 86. The Superintendent of Public Instruction with the cooperation of county offices of education and local districts shall

during the 1977–78 and 1978–79 fiscal years determine the property tax effects and state costs of Sections 6, 7, 8, 9, 10, 14, 15, 27, 28.5, 29, 40, and 41 of this act had they been in effect during these fiscal years. Based on such information the Superintendent of Public Instruction shall project the costs of such provisions over the next five years and issue a report to the Legislature by January 1, 1979, based on actual data for the 1978–79 fiscal year and estimates for the 1979–80 fiscal year. In compiling such information, the Superintendent of Public Instruction may utilize all or a sample of districts.

SEC. 87. The expenditure authorizations provided pursuant to this act by Sections 2, 31, 58, 60, 74, 77, and 78 shall be reduced by 3 percent.

Section 56.5 of this act, exclusive of Sections 54051, 54052, 54054, and 54057 of the Education Code, shall be reduced by thirty-four thousand dollars ($34,000) in the 1977–78 fiscal year, two hundred sixty-eight thousand dollars ($268,000) in the 1978–79 fiscal year, and one million eight hundred sixty-six thousand dollars ($1,866,000) in the 1979–80 fiscal year.

Section 75 of this act shall be reduced by four hundred seventeen thousand dollars ($417,000) in the 1977–78 fiscal year, one million twenty-nine thousand dollars ($1,029,000) in the 1978–79 fiscal year, and one million five hundred sixty thousand dollars ($1,560,000) in the 1979–80 fiscal year.

SEC. 88. Notwithstanding any other provision of the Education Code to the contrary, the governing board of any school district may budget and use any unbudgeted apportionments from the State School Fund and any other unbudgeted revenues received by the district pursuant to this act during the 1977–78 fiscal year without repetition of any publication or other budgeting procedures which would otherwise be required.

SEC. 89. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to reduce the wealth-related disparities in expenditures and tax rates between low-wealth districts and high-wealth districts, as required by Serrano v. Priest (5 Cal. 3d 584 (1971) and 18 Cal. 3d 728 (1976)), and to provide school districts sufficient time to adopt new budgets as early as possible in the 1977–78 school year, it is necessary that this act take effect immediately.

CHAPTER 895

An act to amend Sections 73772, 73773, 73914, 73915, 74644, 74644.2, 74658, and 74658.1 of the Government Code, relating to courts.

[Became law without Governor's signature September 19, 1977
Filed with Secretary of State September 19, 1977]

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

SECTION 1. Section 73772 of the Government Code is amended to read:

73772. There shall be one clerk, who shall be the administrative officer of the court and who shall receive an annual salary recommended by the municipal court and approved by the board of supervisors.

Any change in the salaries in effect immediately prior to January 1, 1978, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 2. Section 73773 of the Government Code is amended to read:

73773. (a) The clerk, with the approval of the judges of said court, may appoint one chief deputy clerk, 15 deputy clerks grade IV, 16 deputy clerks grade III, 12 deputy clerks grade II, 10 deputy clerks grade I, and seven intermediate typists and such other employees as the board of supervisors approve upon the recommendation of the municipal court, each of whom shall receive a salary recommended by the municipal court and approved by the board of supervisors. Any appointee shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1978, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 3. Section 73914 of the Government Code is amended to read:

73914. The biweekly salaries for the following classes of positions shall be, and shall be increased, in accordance with the following schedule:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk of the municipal court	350	$7 9909	$639.27	$671.99	$706.35	$742.47	$780.44
Assistant clerk of the municipal court	299	6.1961	495.69	521.03	547.69	575.69	605.13
Chief deputy clerk	262	5.1521	412.17	433.24	455.39	478.68	503.16
Municipal court clerk	233	4.4583	356.66	374.90	394.07	414.23	435.41

Clerk-typist III....	208	3.9354	314.83	330.95	347.87	365.66	384.37
Clerk-typist II.....	181	3.4395	275.16	289.23	304.02	319.58	335.94
Clerk-typist I	162	3.1286	250.29	263.09	276.54	290.68	305.54
Marshal	373	8.9625	717.00	753.66	792.21	832.73	875.31
Chief deputy marshal.....	354	8.1521	652.17	685.53	720.58	757.43	796.17
Deputy marshal II	305	6.3843	510.74	536.86	564.32	593.18	623.51
Deputy marshal..	295	6.0737	485.90	510.74	536.86	564.32	593.18
Account clerk III	218	4.1369	330.95	347.87	365.66	384.37	404.02
Account clerk II	191	3.6154	289.23	304.02	319.58	335.94	353.12

SEC. 4. Section 73915 of the Government Code is amended to read:

73915. Notwithstanding any other provisions of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk of the municipal court, assistant clerk of the municipal court, chief deputy clerk, and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk-typist III, clerk-typist II, account clerk III, account clerk II, and clerk-typist I, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk-typist III, account clerk III, clerk-typist II, account clerk II, and clerk-typist I under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of marshal, chief deputy marshal, deputy marshal II, and deputy marshal under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date.

SEC. 5. Section 74644 of the Government Code is amended to read:

74644. The biweekly salary for the following classes of positions shall be, and shall be increased, in accordance with the following schedule:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk-administrative officer of the municipal court	350	$7.9909	$639.27	$671.99	$706.35	$742.47	$780.44
Chief deputy of the municipal court	262	5.1521	412.17	433.24	455.39	478.68	503.16
Clerk, supervising	228	4.3484	347.87	365.66	384.37	404.02	424.69
Account clerk III	218	4.1369	330.95	347.87	365.66	384.37	404.02
Account clerk II	191	3 6154	289 23	304.02	319.58	335.94	353.12
Clerk III	208	3.9354	314.83	330.95	347.87	365.66	384.37
Clerk II	181	3.4395	275.16	289.23	304.02	319.58	335.94
Account clerk-typist	172	3.2886	263.09	276.54	290.68	305.54	321.18
Clerk-typist II	181	3.4395	275.16	289.23	304.02	319 58	335.94
Clerk-typist I	162	3.1286	250.29	263.09	276.54	290.68	305.54
Clerk I	162	3.1286	250.29	263.09	276.54	290.68	305.54
Extra help	162	3.1286	250.29	263.09	276.54	290.68	305.54
Marshal	373	8.9625	717.00	753.66	792.21	832.73	875.31
Chief deputy marshal	354	8.1521	652.17	685.53	720.58	757 43	796.17
Marshal's sergeant	330	7.2321	578.57	608.15	639.27	671 99	706 35
Deputy marshal	295	6.0737	485.90	510.74	536.86	564.32	593.18
Assistant clerk-administrator of the municipal court	299	6.1961	495 69	521.03	547.69	575.69	605.13
Municipal court clerk	233	4.4583	356 66	374 90	394 07	414.23	435.41

SEC. 6. Section 74644.2 of the Government Code is amended to read:

74644.2. Notwithstanding any other provisions of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara

County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk-administrative officer of the municipal court, assistant clerk-administrator of the municipal court, chief deputy of the municipal court, and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk, supervising; account clerk III; account clerk II; clerk III; clerk II; account clerk-typist; clerk-typist II; clerk-typist I; clerk I; and extra help, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk, supervising; account clerk III; account clerk II; clerk III; clerk II; account clerk-typist; clerk-typist II; clerk-typist I; clerk I; and extra help under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of marshal, chief deputy marshal, marshal's sergeant, and deputy marshal under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date.

SEC. 7. Section 74658 of the Government Code is amended to read:

74658. (a) The biweekly salaries for the following classes of positions shall be, and shall be increased in accordance with the schedule set forth below:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk of the municipal court—							
Lompoc	312	$6.6111	$528.89	$555.94	$584.37	$614.25	$645.69
Assistant clerk municipal court—							
Lompoc	266	5.2559	420 40	441.97	464.57	488 33	513.30

Municipal court clerk	233	4.4583	356.66	374.90	394.07	414.23	435.41
Marshal— Lompoc	354	8.1521	652.17	685.53	720.58	757.43	796.17
Deputy marshal— Lompoc	295	6.0737	485.90	510.74	536.86	564.32	593.18
Clerk-typist III....	208	3.9354	314.83	330.95	347.87	365 66	384.37
Clerk-typist II.....	181	3.4395	275.16	289.23	304.02	319.58	335.94

Extra help worker as needed (to be compensated in accordance with the salary ordinance of Santa Barbara County)

All figures in columns A, B, C, D and E represent dollars for each biweekly pay period.

(b) The administration of the salary plan provided by this article including the hiring rate, increases within range, salary on promotion, and salary on position classification shall be in accordance with the current personnel rules and salary ordinance of the County of Santa Barbara.

(c) On the effective date of this article, the following regulations will govern the administration of the classification and compensation schedule contained herein:

(1) Except as otherwise provided in this article, all employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and shall be subject to the same rules and regulations concerning length of workweek, anniversary dates and changes thereof, as is now or may be provided by ordinances and policies approved by the Board of Supervisors of Santa Barbara County for other employees of the county.

Nothing in this article shall be construed to place the marshal's or clerk's office, their employees and other municipal court attachés under the civil service system of Santa Barbara County, but such employees and attachés may be placed under the civil service system by court rule adopted by the judges of this municipal court.

(2) For purposes of this article, an employee, unless otherwise designated, refers to every person filling any position established by Sections 74657 and 74657.1.

SEC. 8. Section 74658.1 of the Government Code is amended to read:

74658.1. Notwithstanding any other provision of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk of the municipal court—Lompoc, assist-

ant clerk of the municipal court—Lompoc and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk-typist III, clerk-typist II and extra help worker under this article the percentage of such increase or decrease shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of marshal—Lompoc and deputy marshal—Lompoc under this article, shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following such changes, unless ratified by the Legislature.

SEC. 9. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 896

An act to amend Sections 19035, 19035.1, 19035.3, and 19035.35 of the Business and Professions Code, relating to home furnishings.

[Approved by Governor September 19, 1977. Filed with Secretary of State September 19, 1977.]

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

SECTION 1. Section 19035 of the Business and Professions Code is amended to read:

19035. The California Advisory Board of Furniture and Bedding in the bureau, which consists of eleven members appointed by the Governor, is continued in existence as the California Advisory Board of Home Furnishings.

SEC. 2. Section 19035.1 of the Business and Professions Code is amended to read:

19035.1. Five members of the board shall be members of the industry at large and six members shall represent the public at large. All of the members, except the members representing the public at large, shall have been actively engaged and licensed as follows: one as a mattress manufacturer, one as a supply dealer, one as a retailer, one as an upholstered furniture manufacturer, and one as a custom upholsterer. Each licensee member shall be licensed for a period of not less than five years immediately preceding the date of his appointment and shall continue to be so engaged and licensed during the term of his office.

SEC. 3. Section 19035.3 of the Business and Professions Code is amended to read:

19035.3. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of his term, whichever first occurs.

The terms of the members first appointed to the board shall expire as follows: the sterilizer, June 30, 1956; the supply dealer and the member representing the public at large, June 30, 1957; one manufacturer and one retailer, June 30, 1958; one manufacturer and one retailer, June 30, 1959.

The Governor shall appoint the upholstered-furniture manufacturer authorized by the amendment made to Section 19035.1 at the 1961 Regular Session of the Legislature to the vacancy occurring on the board on June 30, 1962 in the membership of a manufacturer.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

Each member appointed to the board, except the member appointed to represent the public at large, shall be from the same branch of the furniture and bedding industry as his predecessor.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint the additional public member provided for by the Governor's Reorganization Plan No. 2 submitted to the Legislature at the 1970 Regular Session to fill any vacancy occurring in the office of the supply dealer member whose term expires June 30, 1973.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a member of the industry at large.

The Governor shall appoint the additional members provided for at the 1977 portion of the 1977–78 session of the Legislature on or before June 30, 1978.

SEC. 4. Section 19035.35 of the Business and Professions Code is amended to read:

19035.35. Subject to the provisions of Sections 19035.1 and 19035.3, each vacancy occurring in the office of an industry member of the board after the effective date of this section shall be filled by the

appointment of an industry member from the same industry in which the vacancy occurred.

CHAPTER 897

An act to add Section 453.5 to the Public Utilities Code, relating to refunds and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1977 Filed with Secretary of State September 19, 1977]

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

SECTION 1. Section 453.5 is added to the Public Utilities Code, to read:

453.5. Whenever the commission orders rate refunds to be distributed, the commission shall require public utilities to pay refunds to all current utility customers, and, when practicable, to prior customers, on an equitable pro rata basis without regard as to whether or not the customer is classifiable as a residential or commercial tenant, landlord, homeowner, business, industrial, educational, governmental, nonprofit, agricultural, or any other type of entity.

For the purposes of this section, "equitable pro rata basis" shall mean in proportion to the amount originally paid for the utility service involved, or in proportion to the amount of such utility service actually received.

Nothing in this section shall prevent the commission from authorizing refunds to residential and other small customers to be based on current usage.

SEC. 2. Section 1 of this act is hereby declared to be the positive expression of a continuing legislative intent with respect to the statutory construction of Section 453 of the Public Utilities Code, and the supplementation of Section 453 made by this act is, accordingly, a clarification of the law and not a change thereof.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that refunds contemplated by the Public Utilities Commission be distributed equitably and without delay to all utility customers entitled to refunds, and in order that these refunds be distributed without distinction, discrimination, or prejudice based on arbitrary classifications such as residential or commercial tenancy, landlord, homeowner, business, industrial, educational, governmental, nonprofit, agricultural, or any other types of classifications, it is necessary that this act go into immediate effect.

CHAPTER 898

An act to amend Section 6511.7 of the Business and Professions Code, relating to the State Board of Barber Examiners.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 6511.7 of the Business and Professions Code is amended to read:

6511.7. Notwithstanding any other provision of law, the board may assign such additional duties to an examiner-field representative as it deems necessary to carry out the purposes of this chapter.

CHAPTER 899

An act to amend Section 69605 of the Government Code, relating to courts, and making an appropriation therefor.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 69605 of the Government Code is amended to read:

69605. In the County of Tulare there shall be five judges of the superior court.

SEC. 2. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

CHAPTER 900

An act to amend Sections 76015 and 76028 of the Government Code, relating to juries.

[Became law without Governor's signature September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 76015 of the Government Code is amended to read:

76015. In a county of the 15th class, for attendance in any court each trial juror shall be allowed five dollars ($5) for each day's attendance, and mileage at the rate equivalent to that allowed county employees by the board of supervisors, for each mile actually and necessarily traveled in attending upon and returning from court, mileage to be computed for daily attendance, irrespective of whether the daily attendance covers one or more sessions of court.

Each member of the grand jury shall be allowed ten dollars ($10) for each day in attendance upon the sessions of the grand jury and for each day's service as a member of any committee of the grand jury and mileage at the rate equivalent to that allowed county employees by the board of supervisors, for each mile actually and necessarily traveled in attendance upon and returning from meetings of the grand jury, or any session of the grand jury committee, duly called by the secretary, or committee chairman.

SEC. 2. Section 76028 of the Government Code is amended to read:

76028. In a county of the 28th class, for attendance in any court each trial juror shall receive five dollars ($5) for each day's attendance, and mileage, equivalent to that allowed county employees by the board of supervisors, for each mile actually and necessarily traveled in attending upon and returning from court, mileage to be computed for daily attendance, irrespective of whether the daily attendance covers one or more sessions of court.

Each member of the grand jury shall be allowed ten dollars ($10) for each day in attendance upon the sessions of the grand jury and for each day's service as a member of any committee of the grand jury and mileage, equivalent to that allowed county employees by the county board of supervisors, for each mile actually and necessarily traveled in attendance upon and returning from meetings of the grand jury, or any session of the grand jury committee, duly called by the secretary, or committee chairman.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desires legislative authority to carry out the program specified in this act.

CHAPTER 901

An act to amend Sections 74502, 74503, and 74504 of the Government Code, relating to courts.

[Became law without Governor's signature September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk-administrator who shall also serve as secretary to the judges and who shall be paid a salary of two thousand five hundred twenty-six dollars ($2,526) monthly during the first year of service, a salary of two thousand six hundred fifty-two dollars ($2,652) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, a salary of two thousand seven hundred eighty-three dollars ($2,783) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, and the maximum salary of three thousand sixteen dollars ($3,016) monthly after the third year of service, commencing on the first day of the month following the third anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of the Government Code, shall appoint one clerk-administrator who shall also serve as secretary to the judges, and who shall hold office at their pleasure and who shall receive the salary provided in this section.

(b) There shall be one court commissioner who shall be paid a salary of 75 percent of a municipal court judge's salary monthly during the first year of service, a salary of 77 percent of a municipal court judge's salary monthly after the first day of the month following the first anniversary of his appointment, a salary of 80 percent of a municipal court judge's salary monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment, and a salary of 84 percent of a municipal court judge's salary monthly after the third year of service, commencing on the first day of the month following the third anniversary of his appointment. Whenever a vacancy occurs, the judges or a majority of them notwithstanding any other provisions of the Government Code, may appoint one court commissioner, who shall hold office at their pleasure and who shall receive the salary provided in this section.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of one thousand eight hundred sixty-seven dollars ($1,867) monthly during the first year of service, a salary of one thousand nine hundred sixty-two dollars ($1,962) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand fifty-six dollars ($2,056) monthly after the second year of service, commencing on the first day of the month following the second year of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other

provision of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary provided in this section. When the executive assistant to the presiding judge is a member of the State Bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and shall be paid in addition to the salary provided by this article, the additional sum of two hundred dollars ($200) monthly.

(d) There shall be one executive secretary to the presiding judge who shall serve as executive secretary to the presiding judge who shall be paid the salary of one thousand one hundred ninety-two dollars ($1,192) monthly during the first year of service, the salary of one thousand two hundred fifty-two dollars ($1,252) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand three hundred nineteen dollars ($1,319) monthly after the second year of service, commencing on the first day of the month following the second year of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as provided in this section.

SEC. 2. Section 74503 of the Government Code is amended to read:

74503. (a) There shall be one chief deputy, who shall also serve as jury commissioner and who shall exercise the powers of jury commissioners of superior courts insofar as they are applicable to the municipal courts and who shall perform such other duties as assigned by the judges of the court and who shall be paid a minimum salary of two thousand two hundred sixty-eight dollars ($2,268) monthly during the first year of service, a salary of two thousand three-hundred sixty-four dollars ($2,364) monthly after the first year of service, commencing on the first day of the month following the anniversary of his appointment, and a maximum salary of two thousand four hundred sixty-six dollars ($2,466) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of the Government Code, shall appoint one chief deputy, who shall also serve as jury commissioner, and who shall hold office at their pleasure, and who shall perform such other duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(b) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, two deputy clerks who shall be the court systems coordinators, and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one

thousand seven hundred eighty-six dollars ($1,786) monthly during the first year of service, a salary of one thousand eight hundred sixty-eight dollars ($1,868) monthly after the first year of service commencing on the first day of the month following the anniversary of his appointment, and a maximum salary of one thousand nine hundred fifty-three dollars ($1,953) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of the Government Code, shall appoint a deputy clerk who shall be court systems coordinator, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(c) Notwithstanding the provisions of Section 74507 of the Government Code, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be computer training officer and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand five hundred fifty-five dollars ($1,555) monthly during the first year of service, a salary of one thousand six hundred twenty-eight dollars ($1,628) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand seven hundred twelve dollars ($1,712) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of the Government Code, shall appoint one deputy clerk who shall be the computer training officer and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(d) Notwithstanding the provisions of Section 74507 of the Government Code, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be head accountant, accounting division, and who shall possess the qualifications and capabilities to perform the duties of class number 1656, as set forth in City and County of San Francisco class specifications on April 1, 1968, and who shall be paid a minimum salary of one thousand eight hundred ninety-nine dollars ($1,899) monthly during the first year of service, a salary of one thousand nine hundred eighty-six dollars ($1,986) monthly during the second year of service, commencing on the first day of the month following the first anniversary of his appointment, and a salary of two thousand seventy-five dollars ($2,075) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(e) The clerk shall appoint three deputy clerks who shall be the

chief division clerks in the civil, criminal, and traffic departments of the court, and who shall be paid a minimum salary of one thousand seven hundred eighty-six dollars ($1,786) monthly during the first year of service, a salary of one thousand eight hundred sixty-eight dollars ($1,868) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand nine hundred fifty-three dollars ($1,953) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

SEC. 3. Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid a minimum salary of one thousand five hundred fifty-five dollars ($1,555) monthly during the first year of service, a salary of one thousand six hundred twenty-eight dollars ($1,628) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand seven hundred twelve dollars ($1,712) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(b) Thirty-four deputy clerks who shall be paid a minimum salary of one thousand two hundred ninety-three dollars ($1,293) monthly during the first year of service, a salary of one thousand three hundred seventy-five dollars ($1,375) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand four hundred eighty-three dollars ($1,483) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(c) Twenty-two deputy clerks who shall be paid a minimum salary of one thousand one hundred twenty-four dollars ($1,124) monthly during the first year of service, a salary of one thousand one hundred eighty dollars ($1,180) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand two hundred four dollars ($1,204) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment.

(d) Six deputy clerks who shall be paid a minimum salary of one thousand fifty-two dollars ($1,052) monthly during the first year of service, a salary of one thousand seventy-nine dollars ($1,079) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand one hundred ten dollars ($1,110) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his

appointment.

(e) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one administrative legal stenographer who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand one hundred twenty-four dollars ($1,124) monthly during the first year of service, a salary of one thousand one hundred sixty-two dollars ($1,162) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand two hundred twenty-five dollars ($1,225) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provision of the Government Code, shall appoint one administrative legal stenographer who shall hold such position at their pleasure, and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary here and above provided.

(f) Thirty-five deputy clerks who shall be paid a minimum salary of nine hundred nineteen dollars ($919) monthly during the first year of service, a salary of nine hundred forty-eight dollars ($948) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of nine hundred eighty-two dollars ($982) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment.

(g) Sixty-six deputy clerks who shall be paid a minimum salary of seven hundred thirty-three dollars ($733) monthly during the first year of service, a salary of seven hundred ninety-four dollars ($794) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of eight hundred seventy-seven dollars ($877) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment.

(h) Three deputy clerk-information clerks who shall be paid a minimum salary of seven hundred forty-seven dollars ($747) monthly during the first year of service, a salary of eight hundred forty-eight dollars ($848) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, a salary of nine hundred fifty-three dollars ($953) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment, and a maximum salary of nine hundred eighty-five dollars ($985) monthly after the third year of service, commencing on the first day of the month following the third anniversary of his appointment. Whenever any vacancy occurs, the clerk with the

approval of the judges, or a majority of them, notwithstanding any other provisions of the Government Code, shall appoint a deputy clerk-information clerk, who shall perform such duties as assigned by the clerk and who shall receive the salary hereinabove provided.

(i) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the head accountant, accounting division, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(k) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(*l*) Five deputy clerks designated in Section 74504, and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(m) Two deputy clerks designated in Section 74504, who shall serve as master jury calendar clerk, civil and master jury calendar clerk, criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(n) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(o) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 902

An act to amend Sections 70141.12, 74662, 74663, 74664, 74664.5, 74665, 74666, 74666.5, 74674, and 74677 of, and to add Section 74678 to, the Government Code, relating to courts.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 70141.12 of the Government Code is amended to read:

70141.12. In Ventura County, the judges of the superior court a majority concurring, may appoint two superior court commissioners. The superior court may provide that a commissioner, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code, and if appointed by the presiding judge of juvenile court, shall perform the duties of a referee as specified in Section 553 of the Welfare and Institutions Code.

The commissioners shall receive a salary representing 70 percent, 75 percent, or 80 percent of the annual salary for a superior court judge. The court shall determine the level of salary to be received by the court commissioners, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court. They shall also be allowed actual traveling expenses pursuant to Section 70148.

SEC. 1.5. Section 74662 of the Government Code is amended to read:

74662. In the San Jose-Milpitas Judicial District there shall be one clerk who shall also act as secretary to the judges and who shall receive a salary as specified in range 23.3. The clerk may appoint:

(a) One chief deputy court clerk who shall receive a salary as specified in range 18.3.

(b) One administrative assistant—municipal court clerk who shall receive a salary as specified in range 18.0.

(c) Five supervising deputy court clerks, grade II, each of whom shall receive a salary as specified in range 14.5.

(d) Twenty-four municipal courtroom clerks, each of whom shall receive a salary as specified in range 12.5.

(e) Sixty-one deputy court clerks, grade II or grade I, alternate classification, each of whom shall receive a salary as specified in range 6.9 or range 4.2, respectively.

(f) Four assistant supervising deputy court clerks, each of whom shall receive a salary as specified in range 8.5.

(g) One Spanish-English interpreter who shall receive a salary as

specified in range 7.5.

SEC. 2. Section 74663 of the Government Code is amended to read:

74663. In the Santa Clara Judicial District there shall be one clerk who shall also act as secretary to the judges and who shall receive a salary as specified in range 20.3. The clerk may appoint:

(a) One chief deputy court clerk who shall receive a salary as specified in range 16.6.

(b) Five municipal courtroom clerks, each of whom shall receive a salary as specified in range 12.5.

(c) One supervising deputy court clerk, grade I, who shall receive a salary as specified in range 12.0.

(d) Twelve deputy court clerks, grade II or grade I, alternate classification, each of whom shall receive a salary as specified in range 6.9 or range 4.2, respectively.

SEC. 3. Section 74664 of the Government Code is amended to read:

74664. In the Los Gatos-Campbell-Saratoga Judicial District there shall be one clerk who shall also act as secretary to the judge and who shall receive a salary as specified in range 20.3. The clerk may appoint:

(a) One chief deputy court clerk who shall receive a salary as specified in range 17.0.

(b) Two municipal courtroom clerks, who shall receive a salary as specified in range 12.5.

(c) Ten and one-half deputy court clerks, grade II or grade I, alternate classification, each of whom shall receive a salary as specified in range 6.9 or range 4.2, respectively.

SEC. 4. Section 74664.5 of the Government Code is amended to read:

74664.5. In the Gilroy-Morgan Hill Judicial District there shall be one clerk who shall also act as secretary to the judge and who shall receive a salary as specified in range 18.3. The clerk may appoint:

(a) One municipal courtroom clerk who shall receive a salary as specified in range 12.5.

(b) Five deputy court clerks, grade II or grade I, alternate classification, each of whom shall receive a salary as specified in range 6.9 or range 4.2, respectively.

SEC. 5. Section 74665 of the Government Code is amended to read:

74665. In the Sunnyvale-Cupertino Judicial District there shall be one clerk who shall also act as secretary to the judges and who shall receive a salary as specified in range 20.3. The clerk may appoint:

(a) One chief deputy court clerk who shall receive a salary as specified in range 16.6.

(b) Four municipal courtroom clerks, each of whom shall receive a salary as specified in range 12.5.

(c) One supervising deputy court clerk, grade I, who shall receive a salary as specified in range 12.0.

(d) Eleven deputy court clerks, grade II or grade I, alternate classification, each of whom shall receive a salary as specified in range 6.9 or range 4.2, respectively.

SEC. 6. Section 74666 of the Government Code is amended to read:

74666. In the Palo Alto-Mountain View Judicial District there shall be one clerk who shall also act as secretary to the judges and who shall receive a salary as specified in range 21.3. The clerk may appoint:

(a) One chief deputy court clerk who shall receive a salary as specified in range 18.0.

(b) One supervising deputy court clerk, grade II, who shall receive a salary as specified in range 14.5.

(c) Six municipal courtroom clerks, each of whom shall receive a salary as specified in range 12.5.

(d) One supervising deputy court clerk, grade I, who shall receive a salary as specified in range 12.0.

(e) Twenty-two deputy court clerks, grade II or grade I, each of whom shall receive a salary as specified in range 6.9 or range 4.2, respectively.

SEC. 7. Section 74666.5 of the Government Code is amended to read:

74666.5. Notwithstanding any other provision of this article, the judge or a majority of judges in each of any two municipal court districts in Santa Clara County, or, if there be an even number of judges in a district, the senior judge of such district, may, with the approval of the Board of Supervisors of Santa Clara County, appoint one clerk to act as clerk for both judicial districts. Such clerk shall receive a salary specified in range 23.3. This clerk shall also act as secretary to the judges of both courts, and shall have the same powers and duties with respect to each municipal court district as would the clerk of each district.

SEC. 8. Section 74674 of the Government Code is amended to read:

74674. In each of the municipal court districts in the County of Santa Clara, official reporters appointed pursuant to Section 72194 shall be attachés of such courts and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such courts, shall receive a biweekly salary as specified in range 19.1, which shall be a charge against the general fund of the county. Should the board of supervisors increase salaries or adopt a pay plan for official reporters in the superior court pursuant to Section 70046.1, the salary increase or pay plan shall apply equally for all official reporters in municipal courts, but all such changes or adjustments shall be effective only until January 1, 1980. During the hours which the courts are open for transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law, and shall not engage in or solicit to engage in any other employment in their professional capacity.

SEC. 9. Section 74677 of the Government Code is amended to read:

74677. Each clerk and each of his respective assistants, deputies, and other employees shall receive salaries computed in accordance with the range established for the position or classifications in order

to provide compensation comparable to other positions and classifications in the county service as such comparability is determined by the board of supervisors. Whenever reference to a numbered salary range is made in any section of this article, the schedule found in the basic salary plan as adopted by the board of supervisors on September 28, 1976, which includes the same range numbers and rates of pay utilized for all employees of Santa Clara County, shall apply.

Should the board of supervisors increase or decrease salaries, or adopt a revised salary plan, the new schedule of salaries and ranges shall apply equally and be effected for all employees of municipal courts in the same manner and on the same date as for other county officers and employees, but all such changes or adjustments shall be effective only until January 1, 1980.

SEC. 9.5. Section 74678 is added to the Government Code, to read:

74678. In any county with a population of over 1,000,000 and not over 1,070,000 as determined by the 1970 federal census and in which there is, or may be, established by a majority vote of the judges of the superior court and a majority vote of the judges of the municipal court of that county a joint committee comprised of an equal number of superior court and municipal court judges, such committee shall advise the respective courts on matters relating to the administration of criminal justice. Upon concurrence of a majority of the superior court judges and a majority of the municipal court judges, the joint committee may initiate and administer programs, services and other matters relating to the improvement of the criminal justice system.

The executive director and any and all other employees of the joint committee shall be appointed by and serve at the pleasure of the joint committee. The number and compensation of all employees of the joint committee shall be fixed by the board of supervisors. All expenses of the joint committee shall be paid from the general fund of the county, subject to the approval of the board of supervisors.

SEC. 10. In the event that Section 70046.3 of the Government Code as it relates to Santa Clara County or Section 8 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, Section 8 of this act shall be void, and to this end, Section 8 of this act and Section 70046.3 of the Government Code as it relates to Santa Clara County are inseverable.

SEC. 11. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 903

An act to add Chapter 6.5 (commencing with Section 52060) to Part 28 of the Education Code, relating to Native American Indian education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Chapter 6.5 (commencing with Section 52060) is added to Part 28 of the Education Code, to read:

CHAPTER 6.5. NATIVE AMERICAN INDIAN EDUCATION PROGRAM

52060. It is the intent and purpose of the Legislature that the Native American Indian program provided for by this chapter shall be directed to improve the educational accomplishments of Native American Indian students in the rural educational systems in California.

It is the intent of the Legislature to establish projects in Native American Indian education which are designed to develop and test educational models which increase competence in reading and mathematics. Such instructional projects shall be provided in prekindergarten to grade 4.

The Legislature recognizes the importance of Native American Indian parent-community involvement in the planning, implementing, and evaluation of such Native American Indian programs.

52061. As used in this chapter:

(a) "Board" means the State Board of Education.

(b) "Superintendent" means the Superintendent of Public Instruction.

(c) "Project" means an organized undertaking in Native American Indian education which includes, but is not limited to, a description of the undertaking, a listing of the goals and objectives to be achieved, a statement of methods to be used, and the methods to be used in evaluating the success of the project.

52062. From the funds appropriated therefor by the Legislature to the Department of Education for the purposes of this chapter, the superintendent, with the approval of the board shall administer this chapter and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing Native American Indian education programs.

52063. The governing board of any rural school district receiving equalization aid, having a school in which there is a concentration of 10 percent or more of Native American Indian students, and which

maintains prekindergarten through grade 4 or kindergarten through grade 4, may apply to the superintendent for a project in Native American Indian education.

The governing boards of two or more of such school districts may jointly apply for a project in Native American Indian education.

The application shall be made on forms provided by the superintendent, and in accordance with the rules and regulations adopted by the board.

The dates for making application shall be established by the superintendent.

52064. Upon approval by the board of an application under Section 52063, the superintendent shall certify the amount to be apportioned to the applicant school district.

52065. Each school district receiving funds provided by Section 52062 shall establish a districtwide Native American Indian advisory committee for Native American Indian education.

At each school participating, a Native American Indian parent advisory group shall be established to increase communication and understanding between members of a community and the school officials. Each committee shall provide advice and suggestions on all parts of the program.

SEC. 2. There is hereby appropriated from the General Fund to the Department of Education the sum of two hundred ninety-five thousand dollars ($295,000) for the fiscal year 1977–78 for the purposes of Chapter 6.5 (commencing with Section 52060) of Part 28 of the Education Code. Not more than twenty-five thousand dollars ($25,000) shall be allocated to the Department of Education for the administration of such chapter.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to permit Native American Indian education pilot projects established by Chapter 899 of the Statutes of 1976 to continue without interruption, thus avoiding harm to presently functioning successful programs and their student participants, it is necessary that this act take effect immediately.

CHAPTER 904

An act to amend Sections 990 and 990.4 of the Government Code, and to amend Sections 1284 and 1322 of the Insurance Code, relating to malpractice insurance.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 990 of the Government Code is amended to read:

990. Except for a liability which may be insured against pursuant to Division 4 (commencing with Section 3200) of the Labor Code, a local public entity may:

(a) Insure itself against all or any part of any tort or inverse condemnation liability.

(b) Insure any employee of the local public entity against all or any part of his liability for injury resulting from an act or omission in the scope of his employment.

(c) Insure, contract or provide against the expense of defending a claim against the local public entity or its employee, whether or not liability exists on such claim, including a claim for damages under Section 3294 of the Civil Code or otherwise for the sake of example or by way of punishment, where such liability arose from an act or omission in the scope of his employment, and an insurance contract for such purpose is valid and binding notwithstanding Section 1668 of the Civil Code, Section 533 of the Insurance Code, or any other provision of law.

(d) A hospital district may participate in a reciprocal or interinsurance exchange with the members of its medical staff as provided in Section 1284 of the Insurance Code.

Nothing in this section shall be construed to authorize a local public entity to pay for, or to insure, contract, or provide for payment for, such part of a claim or judgment against an employee of the local entity as is for punitive or exemplary damages.

SEC. 2. Section 990.4 of the Government Code is amended to read:

990.4. The insurance authorized by this part may be provided by:

(a) Self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes.

(b) Insurance in any insurer authorized to transact such insurance in this state.

(c) Insurance secured in accordance with Chapter 6 (commencing with Section 1760) of Part 2 of Division 1 of the Insurance Code.

(d) Participation by a hospital district and its medical staff in a reciprocal or interinsurance exchange as provided in Section 1284 of the Insurance Code.

(e) Any combination of insurance authorized by subdivisions (a), (b), (c), and (d).

SEC. 3. Section 1284 of the Insurance Code is amended to read:

1284. Notwithstanding any other provision of this chapter or of this code, any reciprocal or interinsurance exchange which meets all of the conditions of this section shall be exempted from all reserve requirements of this code to which it would otherwise be subject:

(a) The subscribers are comprised of a local hospital district formed pursuant to Division 23 (commencing with Section 32000) of

the Health and Safety Code and the individual participating members of its attending medical staff, or any hospital (as defined in Section 1250 of the Health and Safety Code) and the individual participating members of its attending medical staff. As used in this section, "attending medical staff" refers to licensed physicians and surgeons, podiatrists, and dentists who have hospital privileges at any hospital and not to interns or residents who are employees of such hospital.

(b) The physicians and surgeons on the attending medical staff are independent contractors, whether individually, through professional corporations, or through partnership or clinic arrangements, and the creation of the reciprocal or interinsurance exchange will not affect the prerogatives of such physicians and surgeons in accepting patients, charging fees, or similar issues in the management of a medical practice. This subdivision shall not be construed to limit the authority of a peer review committee to impose such restrictions on the staff privileges of a participating member of the attending medical staff as deemed warranted by the peer review procedure and medical audit methods provided by subdivision (h).

(c) The initial capitalization for the reciprocal or interinsurance exchange specified in subdivisions (d), (e), and (f) shall be equivalent to the total professional and comprehensive general patient liability losses paid by the hospital and its participating medical staff members during the 10 calendar years immediately preceding the year in which the application for the organizational permit is filed. For the medical staff, "total professional and comprehensive general patient liability losses" shall include all losses paid by the participating medical staff members, whether based on their practice in the hospital or outside the hospital. Such combined total shall be funded or secured by equal contributions from the hospital and, collectively, the individual participating members of its attending medical staff. Such funds shall be used to pay for the losses incurred for awards, settlements, and legal fees relating to alleged acts of medical malpractice committed by the hospital or any or all of its participating medical staff members, whether committed in or out of the hospital, and for the operational costs of the reciprocal or interinsurance exchange. Upon determination of the aggregate paid professional and comprehensive general patient liability claims of the preceding 10 years by a survey, such paid claims shall be categorized as provided by subdivisions (d) and (e). In the case of a hospital which has been in existence for less than 10 years, or which has substantially expanded its facilities over the preceding 10 years, or which has paid for no professional liability losses during the preceding 10 years, the commissioner may establish such capitalization requirements as he deems necessary and proper as compared to the amounts specified in subdivisions (d) and (e).

(d) A primary medical liability risk fund shall be maintained in an amount at least equivalent to the aggregate dollar amount of paid

incident claims of one hundred thousand dollars ($100,000) or less per each incident for both the hospital and the participating members of the attending medical staff as provided by subdivision (c).

(e) A catastrophic medical liability risk fund shall be maintained in an amount at least equivalent to the aggregate dollar amount of paid incident claims in excess of one hundred thousand dollars ($100,000) per incident for both the hospital and the participating members of the attending medical staff as provided in subdivision (c). These funds shall be either (1) deposited as cash or secured by letters of credit, certificates of deposit or promissory notes, or (2) be obtained through an executed and delivered loan commitment with a duration of at least one year by a banking institution qualified to do business in California or other forms of credit or assets readily convertible to cash to meet liabilities of the reciprocal or interinsurance exchange organized pursuant to this section.

(f) All funds or assets collected by a reciprocal or interinsurance exchange established under this section and maintained in a form as set forth in subdivisions (d) and (e) shall be admitted assets valued at face value and be held in accordance with Section 1370 of the Insurance Code, except that a credit commitment shall not be considered an admitted asset for the purpose of regulating investment of assets.

(g) The reciprocal or interinsurance exchange may seek from a licensed insurer, or secure in accordance with Chapter 6 (commencing with Section 1760) of Part 2 of Division 1, excess risk coverage for amounts above the self-retention limit of subdivisions (c), (d), and (e). The hospital and the individual members of the attending medical staff shall have unlimited several liability pursuant to Section 1395 to contribute to any liability not covered by such excess risk coverage insurance. Such liability shall be based upon each subscriber's share of the total liability of the reciprocal or interinsurance exchange as determined by a formula adopted by its board of directors. In the event that a subscriber fails to pay any portion of an assessment, then, without releasing the defaulting subscriber from any obligation to the reciprocal or interinsurance exchange, the remaining subscribers shall be charged with the unpaid assessment in accordance with the adopted formula.

(h) The amounts specified in subdivisions (d), and (e) shall be available in the aggregate to meet the professional and comprehensive general patient liabilities of the hospital and the participating members of the attending medical staff, and shall be replenished annually, or more frequently, if necessary, to an amount equivalent to that specified in subdivision (c) or (q), whichever is greater. Such total shall be maintained by a ratio of contributions annually determined by the governing board of the reciprocal or interinsurance exchange as fair, just and reasonable between the hospital and the participating members of the attending medical staff. Assessments may be required as determined to be necessary by

the governing board and shall be due within 60 days of notice thereof. Failure to pay such assessments when due shall constitute grounds for termination of policy benefits or coverage.

(i) Any member of the attending medical staff participating in the program shall, as a condition of such participation, be subject to an extensive peer review procedure and a medical audit method of documenting the quality of medical care.

(j) Any system of rating or assessing individual participating members of the attending medical staff on the basis of their respective risk exposure shall be fair, just and reasonable.

(k) A promissory note, for the purposes of subdivision (e), shall be secured, and such security shall be perfected, by real or personal property having a market value one and one-half times the face value of the note.

(*l*) "Hospital," as used in this section, shall also include any two or more hospitals when either of the following conditions is met:

(i) They are governed by the same hospital district; or

(ii) Where there is a medical staff subject to a unified medical audit and peer review procedure.

(m) Any reciprocal or interinsurance exchange which meets all of the conditions of this section shall be exempt from the California Insurance Guarantee Association established pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1.

(n) For the purposes of Section 985, minimum capitalization shall be either the initial capitalization as provided in subdivision (c) or the minimum capitalization required by subdivision (q), whichever is greater.

(o) In the event that the reciprocal or interinsurance exchange has reasonable cause to believe that its minimum capitalization may be impaired by current liabilities, including reported claims, it shall issue within 30 days to its subscribers notices of assessments in amounts sufficient to cure the impairment. Within 30 days of such notice the subscribers shall pay the assessment or present forms of indebtedness as provided by subdivision (e), except that with regard to a promissory note issued by a person or entity other than a banking institution qualified to do business in California, such note shall be secured by assets sufficient to assure payment of the debt should a default occur.

(p) Any notice of assessment issued pursuant to this section shall be considered an admitted asset at face value and reported as such for the purpose of determining solvency under Section 985.

(q) Minimum capitalization of a reciprocal or interinsurance exchange organized and conducted pursuant to this section shall be determined annually. For the first year following issuance of a certificate of authority, the minimum capitalization shall be that specified in subdivision (c). Each year thereafter, the reciprocal or interinsurance exchange shall conduct a new survey of its subscribers to reestablish their total professional and comprehensive patient

liability loss history as provided by subdivision (r). If such recalculation of such history discloses total losses exceeding the existing minimum capitalization by 20 percent, the minimum capitalization shall be increased to the amount of such new loss history within six months. Nothing in this subdivision shall be construed to preclude the reciprocal or interinsurance exchange from capitalizing at a level exceeding the minimum capitalization required by this section.

(r) The survey of subscribers which establishes total and comprehensive general patient loss liability history shall be annually recalculated to reflect the following:

(1) All such losses paid by, or on behalf of, the hospital for the immediately preceding 10 years;

(2) All such losses paid by, or on behalf of, participating individual members for the immediately preceding 10-calendar-year period during which they held staff privileges at the subscriber hospital; and

(3) All such losses paid by, or on behalf of, participating individual members of the attending medical staff during any portion of the immediately preceding five-calendar-year period in which they were not members of the subscriber hospital staff.

SEC. 4. Section 1322 of the Insurance Code is amended to read:

1322. The attorney prior to admission shall file with the commissioner a declaration verified by his oath or, where such attorney is a corporation, by the oath of its duly authorized officers. Such declaration shall set forth or have annexed thereto:

(a) The name of the attorney and the name under which contracts are to be made.

(b) The location of the principal office of the exchange.

(c) The classes of insurance to be exchanged.

(d) A copy of each form of policy under or by which insurance is to be exchanged.

(e) A copy of the form of the power of attorney or agreement under and by which such insurance is to be exchanged.

(f) A statement that executed contracts or bona fide applications, to be concurrently effective, have been made for the exchange of indemnities by at least 100 separate subscribers, except that such statement shall not be required for organizations operating pursuant to Section 1284.

(g) In the case of employer's liability or workmen's compensation insurance, a statement that there have been executed contracts or bona fide applications, to be concurrently effective, representing annual payroll having a total of not less than one million dollars ($1,000,000).

(h) A statement that there are in the possession of such attorney subject to the supervision of the advisory board, assets conforming to the requirements of Article 5 of this chapter.

(i) A financial statement under oath in the form prescribed by the commissioner for the annual statement.

(j) The instrument authorizing service of process as provided in

this chapter.

(k) A certificate showing any deposits of funds or securities.

CHAPTER 905

An act to amend Sections 69948, 70045.8, and 70054.4 of, and to add Section 68528 to, the Government Code, relating to courts.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 68528 is added to the Government Code, to read:

68528. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Butte, Siskiyou, and Yuba Counties. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for such transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

(5) Such other information as the Judicial Council may require.

SEC. 2. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-five dollars ($55) a day, or any fractional part thereof.

(b) In San Joaquin County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(c) In Madera County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(d) In Kings County, the fee for reporting testimony and

proceedings in contested cases is seventy dollars ($70) a day, or any fractional part thereof.

(e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is seventy dollars ($70) a day, or any fractional part thereof.

(f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(g) In Yuba County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars ($75) a day, or any fractional part thereof, for reporting testimony and proceedings in contested cases.

SEC. 3. Section 70045.8 of the Government Code is amended to read:

70045.8. Notwithstanding any other provision of law including but not limited to Sections 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the official court reporters in Butte County:

(a) The regular full-time official court reporters shall perform the following duties:

(1) Report all criminal proceedings.

(2) Report all civil commitment proceedings and all contempt proceedings.

(3) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.

(4) Report all family law proceedings.

(5) Report all civil jury trials.

(6) Report all hearings on petitions for extraordinary relief, including but not limited to proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram nobis.

(7) Report all proceedings of the grand jury when requested by the foreman, or by the district attorney or by the county counsel.

(8) Any other court proceedings when a party requests a court reporter in accordance with rules of court.

(9) Report the preliminary examination of those accused of crimes before magistrates within Butte County.

(10) Report coroner's inquests when requested by the coroner.

(11) Report proceedings for the Butte County Board of Equalization when requested by the board.

(b) Each regular full-time court reporter shall be paid at a monthly salary rate established according to the following salary schedule:

(Range)	*(Month)*	*(Annual)*
Step A	$1,538	$18,456
Step B	1,619	19,423
Step C	1,699	20,308
Step D	1,783	21,396

Step E	1,874	22,488

Each such reporter shall receive a monthly salary under the schedule corresponding to the length of time that as an official court reporter he has been included within either directly or indirectly by contract the Public Employees' Retirement System of the State of California. Except as provided herein, the initial hiring rate for each position shall be step A, provided further, however, the judges of the superior court may appoint any such court reporter at a higher initial step if in the opinion of the judges of the superior court an individual to be appointed has such experience and qualification as to entitle that individual to such higher initial step. A step advancement from step A to step B may be granted on the first day of the month following the completion of six full months of service in the position. A person may advance to steps C, D, and E upon completion of successive 12-month periods of service. All merit increases as provided herein shall be made at the determination of the judges of the superior court.

In addition to the aforementioned compensation, each official court reporter shall receive twenty-five dollars ($25) per month as reimbursement for the cost of necessary supplies.

In the event a cost-of-living increase is given to the employees of Butte County, the aforementioned salary schedule shall be deemed amended so as to give the court reporters the same cost-of-living increase as is given Butte County employees. Such changes in compensation made pursuant to these provisions shall be on an interim basis and shall expire on January 1 of the second year after the calendar year in which the change occurs, unless ratified by the Legislature.

The foregoing salary is for compensation for reporting services in the superior court under subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.

The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other employees of the said county.

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court in such county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper

county charge.

SEC. 4. Section 70054.4 of the Government Code is amended to read:

70054.4. Notwithstanding the provisions of Sections 70053 and 70054, in Butte County:

(a) In order to help defray the costs of reporting services, in addition to any fees otherwise required by law, a fee of eighteen dollars ($18) shall be paid to the county clerk by each party, or jointly by parties appearing jointly, in each of the following instances:

(1) Where Section 26821 requires such party or parties to pay the county clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court.

(2) Where Sections 26822 to 26825, inclusive, require such party or parties to pay the county clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court.

(3) Where Section 26826 requires the party or parties to pay the clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, corespondent, or adverse party, except in an appeal from an inferior court.

(4) Where Section 26827 requires such party or parties to pay the county clerk a fee for the filing of a petition or other paper in a probate, guardianship, conservatorship, or other proceeding specified in that section.

(b) In addition to any fee otherwise required, in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(c) In addition to any fee otherwise required, in a civil case in which the court orders a daily transcript, necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(d) All fees paid under this section shall be taxed as costs.

SEC. 5. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Butte, Siskiyou, and Yuba Counties is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of set-

ting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any other appropriation made by this act, because the provisions of this act are in accordance with the request of a local government entity which desired legislative authority to carry out any program and perform any service required by the act.

SEC. 7. If any provision of Section 1, 2, 3, or 4 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

CHAPTER 906

An act to amend Section 830.12 of the Penal Code, relating to security officers designated by municipal utility districts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 830.12 of the Penal Code is amended to read:

830.12. (a) Persons designated as security officers by a municipal utility district pursuant to Section 12820 of the Public Utilities Code are peace officers while engaged in the performance of their duties as security officers.

(b) The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed with respect to persons or property, the protection of which is the immediate duty of such officer.

(c) The district shall adopt regulations controlling the use of firearms by such security officers. Such regulations shall ensure that such peace officers shall not carry firearms except when there is a public emergency, as defined by such regulations, necessitating the immediate use of firearms, provided that a district which operates facilities for generating, transmitting, and distributing electricity may adopt regulations permitting any such peace officers who are uniformed to carry firearms for the purpose of providing security for such facilities and for the personnel operating such facilities.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting such necessity are:

Regulations recently adopted by the U.S. Nuclear Regulatory Commission require carrying of firearms by peace officers employed by operators of nuclear power plants. In order that municipal utility districts be able to comply with such regulations, it is necessary that this legislation take immediate effect.

CHAPTER 907

An act to amend Sections 6863 and 6947 of the Business and Professions Code, and to add Title 1.6C (commencing with Section 1788) to Part 4 of Division 3 of the Civil Code, relating to debt collection.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Title 1.6C (commencing with Section 1788) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6C. FAIR DEBT COLLECTION PRACTICES

Article 1. General Provisions

1788. This title may be cited as the Robbins-Rosenthal Fair Debt Collection Practices Act.

1788.1. (a) The Legislature makes the following findings:

(1) The banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts. Unfair or deceptive collection practices undermine the public confidence which is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers.

(2) There is need to ensure that debt collectors and debtors exercise their responsibilities to one another with fairness, honesty and due regard for the rights of the other.

(b) It is the purpose of this title to prohibit debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts and to require debtors to act fairly in entering into and honoring such debts, as specified in this title.

1788.2. (a) Definitions and rules of construction set forth in this section are applicable for the purpose of this title.

(b) The term "debt collection" means any act or practice in connection with the collection of consumer debts.

(c) The term "debt collector" means any person who, in the ordinary course of business, regularly, on behalf of himself or others,

engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters, and other collection media used or intended to be used for debt collection, but does not include an attorney or counselor at law.

(d) The term "debt" means money, property or their equivalent which is due or owing or alleged to be due or owing from a natural person to another person.

(e) The term "consumer credit transaction" means a transaction between a natural person and another person in which property, services or money is acquired on credit by that natural person from such other person primarily for personal, family, or household purposes.

(f) The terms "consumer debt" and "consumer credit" mean money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction.

(g) The term "person" means a natural person, partnership, corporation, trust, estate, cooperative, association or other similar entity.

(h) The term "debtor" means a natural person from whom a debt collector seeks to collect a consumer debt which is due and owing or alleged to be due and owing from such person.

(i) The term "creditor" means a person who extends consumer credit to a debtor.

(j) The term "consumer credit report" means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for person, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under any applicable Federal or state law or regulation. The term does not include (a) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (b) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (c) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under any applicable federal or state law or regulation.

(k) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on

consumers for the purpose of furnishing consumer credit reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer credit reports.

1788.3. Nothing contained in this title shall be construed to prohibit a credit union chartered under Division 5 (commencing with Section 14000) of the Financial Code or under the Federal Credit Union Act (Chapter 14 (commencing with Section 1751) of Title 12 of the United States Code) from providing information to an employer when the employer is ordinarily and necessarily entitled to receive such information because he is an employee, officer, committee member, or agent of such credit union.

Article 2. Debt Collector Responsibilities

1788.10. No debt collector shall collect or attempt to collect a consumer debt by means of the following conduct:

(a) The use, or threat of use, of physical force or violence or any criminal means to cause harm to the person, or the reputation, or the property of any person;

(b) The threat that the failure to pay a consumer debt will result in an accusation that the debtor has committed a crime where such accusation, if made, would be false;

(c) The communication of, or threat to communicate to any person the fact that a debtor has engaged in conduct, other than the failure to pay a consumer debt, which the debt collector knows or has reason to believe will defame the debtor;

(d) The threat to the debtor to sell or assign to another person the obligation of the debtor to pay a consumer debt, with an accompanying false representation that the result of such sale or assignment would be that the debtor would lose any defense to the consumer debt;

(e) The threat to any person that nonpayment of the consumer debt may result in the arrest of the debtor or the seizure, garnishment, attachment or sale of any property or the garnishment or attachment of wages of the debtor, unless such action is in fact contemplated by the debt collector and permitted by the law; or

(f) The threat to take any action against the debtor which is prohibited by this title.

1788.11. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:

(a) Using obscene or profane language;

(b) Placing telephone calls without disclosure of the caller's identity, provided that an employee of a licensed collection agency may identify himself by using his registered alias name as long as he correctly identifies the agency he represents;

(c) Causing expense to any person for long distance telephone calls, telegram fees or charges for other similar communications, by misrepresenting to such person the purpose of such telephone call, telegram or similar communication;

(d) Causing a telephone to ring repeatedly or continuously to annoy the person called; or

(e) Communicating, by telephone or in person, with the debtor with such frequency as to be unreasonable and to constitute an harassment to the debtor under the circumstances.

1788.12. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:

(a) Communicating with the debtor's employer regarding the debtor's consumer debt unless such a communication is necessary to the collection of the debt, or unless the debtor or his attorney has consented in writing to such communication. A communication is necessary to the collection of the debt only if it is made for the purposes of verifying the debtor's employment, locating the debtor, or effecting garnishment, after judgment, of the debtor's wages, or in the case of a medical debt for the purpose of discovering the existence of medical insurance. Any such communication shall be in writing unless such written communication receives no response within 15 days and shall be made only as many times as is necessary to the collection of the debt. Communications to a debtor's employer regarding a debt shall not contain language that would be improper if the communication were made to the debtor. One communication solely for the purpose of verifying the debtor's employment may be oral without prior written contact.

(b) Communicating information regarding a consumer debt to any member of the debtor's family, other than the debtor's spouse or the parents or guardians of the debtor who is either a minor or who resides in the same household with such parent or guardian, prior to obtaining a judgment against the debtor, except where the purpose of the communication is to locate the debtor, or where the debtor or his attorney has consented in writing to such communication;

(c) Communicating to any person any list of debtors which discloses the nature or existence of a consumer debt, commonly known as "deadbeat lists", or advertising any consumer debt for sale, by naming the debtor; or

(d) Communicating with the debtor by means of a written communication that displays or conveys any information about the consumer debt or the debtor other than the name, address and telephone number of the debtor and the debt collector and which is intended both to be seen by any other person and also to embarrass the debtor.

(e) Notwithstanding the foregoing provisions of this section, the disclosure, publication or communication by a debt collector of information relating to a consumer debt or the debtor to a consumer reporting agency or to any other person reasonably believed to have a legitimate business need for such information shall not be deemed to violate this title.

1788.13. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:

(a) Any communication with the debtor other than in the name either of the debt collector or the person on whose behalf the debt collector is acting;

(b) Any false representation that any person is an attorney or counselor at law;

(c) Any communication with a debtor in the name of an attorney or counselor at law or upon stationery or like written instruments bearing the name of the attorney or counselor at law, unless such communication is by an attorney or counselor at law or shall have been approved or authorized by such attorney or counselor at law;

(d) The representation that any debt collector is vouched for, bonded by, affiliated with, or is an instrumentality, agent or official of any federal, state or local government or any agency of federal, state or local government, unless the collector is actually employed by the particular governmental agency in question and is acting on behalf of such agency in the debt collection matter;

(e) The use of any written communication which simulates or is falsely represented to be a document authorized, issued or approved by a court or agency of any federal, state or local government;

(f) The false representation that the consumer debt may be increased by the addition of attorney's fees, investigation fees, service fees, finance charges, or other charges if, in fact, such fees or charges may not legally be added to the existing obligation;

(g) The false representation that information concerning a debtor's failure or alleged failure to pay a consumer debt has been or is about to be referred to a consumer reporting agency;

(h) The false representation that a debt collector is a consumer reporting agency;

(i) The false representation that collection letters, notices or other printed forms are being sent by or on behalf of a claim, credit, audit or legal department;

(j) The false representation of the true nature of the business or services being rendered by the debt collector;

(k) The false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made;

(*l*) The false representation that a consumer debt has been, is about to be, or will be sold, assigned, or referred to a debt collector for collection; or

(m) Any communication by a licensed collection agency to a debtor demanding money unless the claim is actually assigned to the collection agency.

1788.14. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:

(a) Obtaining an affirmation from a debtor who has been adjudicated a bankrupt, of a consumer debt which has been discharged in such bankruptcy, without clearly and conspicuously disclosing to the debtor, in writing, at the time such affirmation is sought, the fact that the debtor is not legally obligated to make such

affirmation;

(b) Collecting or attempting to collect from the debtor the whole or any part of the debt collector's fee or charge for services rendered, or other expense incurred by the debt collector in the collection of the consumer debt, except as permitted by law; or

(c) Initiating communications, other than statements of account, with the debtor with regard to the consumer debt, when the debt collector has been previously notified in writing by the debtor's attorney that the debtor is represented by such attorney with respect to the consumer debt and such notice includes the attorney's name and address and a request by such attorney that all communications regarding the consumer debt be addressed to such attorney, unless the attorney fails to answer correspondence, return telephone calls, or discuss the obligation in question. This subdivision shall not apply where prior approval has been obtained from the debtor's attorney, or where the communication is a response in the ordinary course of business to a debtor's inquiry.

1788.15. (a) No debt collector shall collect or attempt to collect a consumer debt by means of judicial proceedings when the debt collector knows that service of process, where essential to jurisdiction over the debtor or his property, has not been legally effected.

(b) No debt collector shall collect or attempt to collect a consumer debt, other than one reduced to judgment, by means of judicial proceedings in a county other than the county in which the debtor has incurred the consumer debt or the county in which the debtor resides at the time such proceedings are instituted, or resided at the time the debt was incurred.

Article 3. Debtor Responsibilities

1788.20. In connection with any request or application for consumer credit, no person shall:

(a) Request or apply for such credit at a time when such person knows there is no reasonable probability of such person's being able, or such person then lacks the intention, to pay the obligation created thereby in accordance with the terms and conditions of the credit extension; or

(b) Knowingly submit false or inaccurate information or willfully conceal adverse information bearing upon such person's credit worthiness, credit standing, or credit capacity.

1788.21. (a) In connection with any consumer credit existing or requested to be extended to a person, such person shall within a reasonable time notify the creditor or prospective creditor of any change in such person's name, address, or employment.

(b) Each responsibility set forth in subdivision (a) shall apply only if and after the creditor clearly and conspicuously in writing discloses such responsibility to such person.

1788.22. (a) In connection with any consumer credit extended to a person under an account:

(1) No such person shall attempt to consummate any consumer credit transaction thereunder knowing that credit privileges under the account have been terminated or suspended.

(2) Each such person shall notify the creditor by telephone, telegraph, letter, or any other reasonable means that an unauthorized use of the account has occurred or may occur as the result of loss or theft of a credit card, or other instrument identifying the account, within a reasonable time after such person's discovery thereof, and shall reasonably assist the creditor in determining the facts and circumstances relating to any unauthorized use of the account.

(b) Each responsibility set forth in subdivision (a) shall apply only if and after the creditor clearly and conspicuously in writing discloses such responsibility to such person.

Article 4. Enforcement

1788.30. (a) Any debt collector who violates this title with respect to any debtor shall be liable to that debtor only in an individual action, and his liability therein to that debtor shall be in an amount equal to the sum of any actual damages sustained by the debtor as a result of the violation.

(b) Any debt collector who willfully and knowingly violates this title with respect to any debtor shall, in addition to actual damages sustained by the debtor as a result of the violation, also be liable to the debtor only in an individual action, and his additional liability therein to that debtor shall be for a penalty in such amount as the court may allow, which shall not be less than one hundred dollars ($100) nor greater than one thousand dollars ($1,000).

(c) In the case of any action to enforce any liability under this title, the prevailing party shall be entitled to costs of the action. Reasonable attorney's fees, which shall be based on time necessarily expended to enforce the liability, shall be awarded to a prevailing debtor; reasonable attorney's fees may be awarded to a prevailing creditor upon a finding by the court that the debtor's prosecution or defense of the action was not in good faith.

(d) A debt collector shall have no civil liability under this title if, within 15 days either after discovering a violation which is able to be cured, or after the receipt of a written notice of such violation, the debt collector notifies the debtor of the violation, and makes whatever adjustments or corrections are necessary to cure the violation with respect to the debtor.

(e) A debt collector shall have no civil liability to which such debt collector might otherwise be subject for a violation of this title, if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation.

(f) Any action under this section may be brought in any

appropriate court of competent jurisdiction in an individual capacity only, within one year from the date of the occurrence of the violation.

(g) Any intentional violation of the provisions of this title by the debtor may be raised as a defense by the debt collector, if such violation is pertinent or relevant to any claim or action brought against the debt collector by or on behalf of the debtor.

1788.31. If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remaining provisions of this title, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

1788.32. The remedies provided herein are intended to be cumulative and are in addition to any other procedures, rights, or remedies under any other provision of law. The enactment of this title shall not supersede existing administrative regulations of the Director of Consumer Affairs except to the extent that those regulations are inconsistent with the provisions of this title.

SEC. 2. Section 6863 of the Business and Professions Code is amended to read:

6863. The director may establish and enforce such rules and regulations as may be reasonable and necessary for the examination and licensing of applicants, for the conduct of licensees and for the general enforcement of the various provisions of this chapter in the protection of the public, and may establish and enforce implementing regulations within the subject area of Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code for licensees and applicants. The chief shall distribute to each licensee and each applicant for a license copies of this chapter and of such rules and regulations. Such rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

The willful violation of any rules and regulations established hereunder or the willful violation of any provision of Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code shall be sufficient ground for revocation of the license of a licensee, or other disciplinary action.

SEC. 3. Section 6947 of the Business and Professions Code is amended to read:

6947. Nothing in this chapter shall be deemed to authorize a collection agency licensee to perform any act or acts, either directly or indirectly, constituting the practice of law.

No suit may be instituted on behalf of a collection agency licensee in any court on any claim assigned to it in its own name as the real party in interest unless it appears by a duly authorized and licensed attorney at law.

A collection agency may not appear as an assignee party in any proceeding involving claim and delivery, replevin, or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien. Nothing herein contained

shall prohibit a licensee from making an oral or written demand for the return or surrender of personal property or from having property attached in an action at law pursuant to the provisions of Title 6.5 (commencing with Section 481.010) of Part 2 of the Code of Civil Procedure, or from enforcing a judgment carrying it into execution.

No licensee or employee shall:

(a) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency or to receive compensation therefrom.

(b) Engage in any practice or act prohibited by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code.

(c) Collect or attempt to collect by the use of any methods contrary to the postal laws and regulations of the United States.

(d) Commingle the money of his customers with his own, except insofar as may be authorized by rules and regulations established hereunder.

(e) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof while engaged in collection agency business.

(f) Print, publish or otherwise prepare for distribution for the use of, or sell or offer to sell or furnish or offer to furnish to, any person any system of collection letters, demand forms or other printed matter upon his stationery, or upon stationery upon which the licensee's name appears in such manner as to indicate that a demand is being made by the licensee for the payment of any sum or sums due or asserted to be due, where such forms containing such message are to be sold or furnished to any person to be used by such person at any address different from the address of the licensee as shown on the face of the license.

(g) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof, nor agree to do so for the purpose of solicitation of claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under the order of a court of competent jurisdiction.

(h) Use any name while engaged in the collection of claims, other than his true name, except under conditions prescribed by rules and regulations adopted by the director.

(i) Engage in any unfair or misleading practices or resort to any illegal means or methods of collection.

(j) Condition in any manner, whether directly or indirectly, the filing, recording, or delivery of an acknowledgment of satisfaction of judgment upon the performance of any act or the payment of any amount by a judgment debtor in excess of that to which the judgment creditor or assignee is entitled pursuant to the judgment.

CHAPTER 908

An act to amend Section 273d of, and to add Section 273.5 to, the Penal Code, relating to marital violence information.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 273d of the Penal Code is amended to read:

273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

SEC. 2. Section 273.5 is added to the Penal Code, to read:

273.5. Any husband who willfully inflicts upon his wife corporal injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

CHAPTER 909

An act to amend Sections 5003, 6200, and 6203 of, and to add Article 4.5 (commencing with Section 2043) to Chapter 1 of Title 1 of Part 3 of, the Penal Code, relating to correctional institutions.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Article 4.5 (commencing with Section 2043) is added to Chapter 1 of Title 1 of Part 3 of the Penal Code, to read:

Article 4.5. California Correctional Center

2043. The Director of Corrections is authorized to establish a state prison for the confinement of males under the custody of the Director of Corrections to be known as the California Correctional Center at Susanville.

2043.1. The primary purpose of the state prison authorized to be established by Section 2043 shall be to provide custody and care, and industrial, vocational, and other training to persons confined therein.

2043.2. Any person under the custody of the Director of Corrections may be transferred to the California Correctional Center at Susanville in accordance with law.

2043.3. The Director of Corrections shall make rules and

regulations for the government of the California Correctional Center at Susanville and the management of its affairs.

2043.4. The Superintendent of the California Correctional Center at Susanville shall be appointed pursuant to Section 6050 and the Director of Corrections shall appoint, subject to civil service, such other officials and employees as may be necessary therefor.

2043.5. The provisions of Part 3 (commencing with Section 2000) of this code shall apply to the California Correctional Center at Susanville and to the persons confined therein, insofar as such provisions may be applicable.

SEC. 2. Section 5003 of the Penal Code is amended to read:

5003. The department has jurisdiction over the following prisons and institutions:

(a) The California State Prison at San Quentin.
(b) The California State Prison at Folsom.
(c) The California Institution for Men.
(d) The California Institution for Women.
(e) The Deuel Vocational Institution.
(f) The California Medical Facility.
(g) The Correctional Training Facility.
(h) The California Men's Colony.
(i) The California Correctional Institution at Tehachapi.
(j) The California Rehabilitation Center.
(k) The California Correctional Center at Susanville.
(*l*) The Sierra Conservation Center.
(m) The Southern Conservation Center.
(n) The North Coast Conservation Center.
(o) The Medical Correctional Institution.
(p) The Special Security Facility.
(q) Such other institutions and prison facilities as the Department of Corrections or the Director of Corrections may be authorized by law to establish.

SEC. 3. Section 6200 of the Penal Code is amended to read:

6200. There are hereby established, under the jurisdiction of the Director of Corrections, the Sierra Conservation Center, the North Coast Conservation Center and the Southern Conservation Center, hereafter referred to collectively as the "conservation centers."

SEC. 4. Section 6203 of the Penal Code is amended to read.

6203. The Director of Corrections shall, in accordance with law, construct and provide equipment for suitable buildings, structures, and facilities for the conservation centers, branches thereof, and permanent, temporary, and mobile camps operated therefrom. The director may, as necessary, lease equipment needed for the operation of mobile camps. The Sierra Conservation Center shall be located in the Tuolumne area of California. The North Coast Conservation Center shall be located in the North Coast area of California. The Southern Conservation Center shall be located on the grounds of the California Institution for Men at Chino. The director may establish such branches of the conservation centers as

may be necessary.

CHAPTER 910

An act to amend Sections 202, 207, and 247 of, to amend and renumber Sections 553.2, 701.1, 701.2, 701.3, 701.4, 701.5, 701.6, and 701.7 of, and to repeal Sections 502, 507, and 553 of, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 202 of the Welfare and Institutions Code is amended to read:

202. (a) The purpose of this chapter is to secure for each minor under the jurisdiction of the juvenile court such care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to protect the public from criminal conduct by minors; to impose on the minor a sense of responsibility for his own acts; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when necessary for his welfare or for the safety and protection of the public; and, when the minor is removed from his own family, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents. This chapter shall be liberally construed to carry out these purposes.

(b) The purpose of this chapter also includes the protection of the public from the consequences of criminal activity, and to such purpose probation officers, peace officers, and juvenile courts shall take into account such protection of the public in their determinations under this chapter.

SEC. 2. Section 207 of the Welfare and Institutions Code is amended to read:

207. (a) No court, judge, referee, or peace officer shall knowingly detain in any jail or lockup any person under the age of 18 years unless a judge of the juvenile court shall determine that there are no other proper and adequate facilities for the care and detention of such person, or unless such person has been transferred by the juvenile court to another court for proceedings not under the juvenile court law and has been charged with or convicted of a felony. If any person under the age of 18 years is transferred by the juvenile court to another court and is charged with or convicted of a felony as herein provided and is not released pending hearing, such person may be committed to the care and custody of a sheriff, constable, or other peace officer who shall keep such person in the

juvenile hall or in such other suitable place as such latter court may direct, provided that no such person shall be detained in or committed to any hospital except for medical or other remedial care and treatment or observation.

(b) Notwithstanding the provisions of subdivision (a), no minor shall be detained in any jail, lockup, juvenile hall, or other secure facility, who is taken into custody solely upon the ground that he is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground. If any such minor is detained, he shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

SEC. 3. Section 247 of the Welfare and Institutions Code is amended to read:

247. The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more referees to serve on a full-time or part-time basis. A referee shall serve at the pleasure of the appointing judge, and unless the appointing judge makes his order terminating the appointment of a referee, such referee shall continue to serve as such until the appointment of his successor. Except as otherwise provided by law, the amount and rate of compensation to be paid referees shall be fixed by the board of supervisors. Every referee first appointed on or after January 1, 1977, shall have been admitted to practice law in this state and, in addition, shall have been admitted to practice law in this state for a period of not less than five years or in any other state and this state for a combined period of not less than 10 years. Nothing in this section shall be construed to apply to the qualifications of any referee first appointed prior to January 1, 1977.

SEC. 4. Section 502 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 507 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 553 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 553.2 of the Welfare and Institutions Code is amended and renumbered to read:

247.5. The provisions of Sections 170 and 170.6 of the Code of Civil Procedure shall apply to a referee, provided, that the presiding judge of the juvenile court shall if the motion is granted reassign the matter to another referee or to a judge of the juvenile court.

SEC. 8. Section 701.1 of the Welfare and Institutions Code is amended and renumbered to read:

355.1. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or

omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence of the minor's need of proper and effective parental care, and such proof shall be sufficient to support a finding that the minor is described by subdivision (a) of Section 300.

SEC. 9. Section 701.2 of the Welfare and Institutions Code is amended and renumbered to read:

355.2. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the neglect of either of his parents, his guardian, or other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

SEC. 10. Section 701.3 of the Welfare and Institutions Code is amended and renumbered to read:

355.3. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the cruelty to him by either of his parents, his guardian, or other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

SEC. 11. Section 701.4 of the Welfare and Institutions Code is amended and renumbered to read:

355.4. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the physical abuse of him by either of his parents, his guardian, or other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

SEC. 12. Section 701.5 of the Welfare and Institutions Code is amended and renumbered to read:

355.5. Proof that either parent, the guardian, or other person who has the care or custody of a minor who is the subject of a petition filed under Section 300, has physically abused, neglected, or cruelly

treated another minor shall be admissible in evidence.

SEC. 13. Section 701.6 of the Welfare and Institutions Code is amended and renumbered to read:

355.6. The presumptions created by Sections 355.1, 355.2, 355.3, and 355.4 shall constitute presumptions affecting the burden of producing evidence.

SEC. 14. Section 701.7 of the Welfare and Institutions Code is amended and renumbered to read:

355.7. Testimony by a parent, guardian, or other person who has the care or custody of the minor made the subject of a proceeding under subdivision (a) or (d) of Section 300 shall not be admissible as evidence in any other action or proceeding.

SEC. 15. Any section of any act enacted by the Legislature during the 1977 portion of the 1977–78 Regular Session, which takes effect on or before January 1, 1978, and which amends, amends and renumbers, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether such act is enacted prior or subsequent to this act.

CHAPTER 911

An act to amend Sections 58505 and 58510 of, and to repeal Section 58506 of, the Education Code, relating to public schools.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 58505 of the Education Code is amended to read:

58505. A district may establish alternative schools in each attendance area or on a districtwide basis, with enrollment open to all students districtwide, or any combination thereof.

SEC. 2. Section 58506 of the Education Code is repealed.

SEC. 3. Section 58510 of the Education Code is amended to read.

58510. Each district operating an alternative school shall annually evaluate such school. The evaluation shall include testing of basic skills for student participants, and must identify the variables which may have affected student academic achievement. The process of evaluation shall also include teacher, parent, and student input from the alternative school itself. These evaluation reports shall be sent to the Superintendent of Public Instruction on or before August 1st of the following year and shall be annually reviewed by persons designated by the superintendent who are not employed by the district operating the alternative school under review.

CHAPTER 912

An act to amend Section 273d of, and to add Section 273.5 to, the Penal Code, relating to crimes.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 273d of the Penal Code is amended to read:

273d. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, corporal injury resulting in a traumatic condition, and any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

SEC. 2. Section 273d of the Penal Code is amended to read·

273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

SEC. 3. Section 273.5 is added to the Penal Code, to read:

(a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 92 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 273d of the Penal Code, and this bill is chaptered after Senate Bill No. 92, that the amendments to Section 273d proposed by both bills be given effect as set forth in Sections 2 and 3 of this act. Therefore, Sections 2 and 3 of this act shall become operative only if this bill and Senate Bill No. 92 are both chaptered and become effective on or before January 1, 1978, both amend Section 273d, and this bill is chaptered after Senate Bill No. 92, in which case Section 1 of this act shall not become operative.

CHAPTER 913

An act to amend Section 39831 of the Education Code, relating to schoolbuses.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 39831 of the Education Code is amended to read:

39831. The State Board of Education shall adopt reasonable regulations relating to the use of schoolbuses by school districts and others. Such regulations shall not include the safe operation of schoolbuses which regulations shall be adopted instead by the Department of the California Highway Patrol pursuant to Section 34500 of the Vehicle Code.

The Department of the California Highway Patrol shall adopt regulations relating to the safe operation of schoolbuses which shall include requiring school district governing boards to implement plans to monitor bus routes, schedules, and alerting procedures for notifying law enforcement agencies whenever a schoolbus is unreasonably overdue and to include in their schoolbus driver training programs, the proper actions to be taken in the event that a schoolbus is hijacked.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 914

An act to amend Section 11628 of, and to add Chapter 9.6 (commencing with Section 657) to Part 1 of Division 1 of, the Insurance Code, relating to insurers.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 11628 of the Insurance Code is amended to read.

11628. No admitted insurer, licensed to issue motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for such insurance, to issue such

insurance to an applicant therefor, or issue or cancel such insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.

As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. A record of loss experience for such geographic area shall be available for examination by the commissioner.

As used in this section, "language" means the inability to speak, read, write, or comprehend the English language.

SEC. 2. Chapter 9.6 (commencing with Section 657) is added to Part 1 of Division 1 of the Insurance Code, to read:

CHAPTER 9.6. REASONS FOR DENIAL OF MOTOR VEHICLE LIABILITY INSURANCE

657. (a) Where any admitted insurer, licensed to issue motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, or any licensed insurance agent refuses to accept an application for such a policy or refuses to issue such a policy when a written application has been made, the refusing agent or refusing insurer shall furnish to the applicant for insurance a written statement explaining the reason or reasons relied upon for such action if within 30 days of such refusal the applicant requests in writing, from the agent or insurer who has refused to accept the application or to issue the policy, such a written explanation. Such statement shall be furnished within 30 days of receipt of such request.

(b) Any insurer or agent willfully violating any provisions of this section is guilty of a misdemeanor and is punishable by a fine not exceeding five hundred dollars ($500) for each violation thereof.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the Insurance Commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to the reasons for such a refusal, for any statement made by any of them in any written notice of reasons for refusing to accept the application or issue the policy or in any other communication, oral or written, specifying the reasons for such action or the providing of the information pertaining thereto, or for statements made or evidence submitted in any hearings conducted in connection therewith.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that

section nor shall there by an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 915

An act to amend Sections 74101, 74102, 74104, 78200, 78412, 78462, 84764, and 84765 of, and to add Sections 5015.5, 74103, 74105, 74106, 78201.5, and 85133.2 to, and to repeal Sections 74103 and 74105 of, the Education Code, and to amend Section 2228.1 of the Revenue and Taxation Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 5015.5 is added to the Education Code, to read:

5015.5. Notwithstanding Section 5015, the governing board of any community college district may, by a resolution adopted by a majority vote of the board, assign a number to each seat on the board to be selected by lot. Once such numbers are assigned, any candidate for election to the board shall be required to run for a particular numbered seat on the board and be elected by the voters of the district at large.

SEC. 1.5. Section 74101 of the Education Code is amended to read:

74101. Except as provided in Section 74104, no community college district shall be formed, and the board of governors shall not approve a petition to form or reorganize a community college district if the estimated resident average daily attendance of the district in the third year of operation for all purposes is less than 3,000 units of average daily attendance.

SEC. 2. Section 74102 of the Education Code is amended to read:

74102. Except as provided in Section 74104, no community college district shall be formed and the board of governors shall not approve a petition to form a community college district if the assessed valuation of taxable property in the proposed district would be less than one hundred fifty thousand dollars ($150,000) for each unit of estimated resident average daily attendance in the third year of operation for all purposes. For the purposes of this section, the assessed valuation of the territory in the district shall be that shown by the last equalized assessment roll of the county or counties in

which the district will be located as of the time the petition to form the district is presented to the board of governors.

SEC. 3. Section 74103 of the Education Code is repealed.

SEC. 4. Section 74103 is added to the Education Code, to read:

74103. Any community college district formed after July 1, 1977, and which does not, after three years from the date of approval by the board of governors of the district's organization, have at least 3,000 average daily attendance annually credited to it, shall, by appropriate reorganization procedures, be included within the territory of a contiguous community college district, with consideration given to annexation to the district with the least amount of average daily attendance.

SEC. 5. Section 74104 of the Education Code is amended to read:

74104. If the board of governors determines that the proposed district will serve an area which is isolated from other existing community colleges or if existing community colleges are inaccessible to residents of the area to be served, the board of governors may approve the formation of a new community college district with a smaller estimated average daily attendance or assessed valuation for each unit of estimated average daily attendance than that required by Sections 74101 and 74102.

SEC. 6. Section 74105 of the Education Code is repealed.

SEC. 7. Section 74105 is added to the Education Code, to read:

74105. For the purposes of Section 74104, "isolation" means that the territory is separated from the closest community college district by a major mountain range and the combining of all contiguous nondistrict territories would result in an average daily attendance of less than 3,000 in the third year of operation for all purposes.

SEC. 8. Section 74106 is added to the Education Code, to read:

74106. Except for a community college district formed pursuant to Section 74104, any district formed after July 1, 1977, and which does not, after three years from the date of approval by the board of governors of the district's organization or reorganization, have at least 3,000 average daily attendance annually credited to it, shall, by appropriate reorganization procedures, be included within the territory of a contiguous community college district, with consideration given to annexation to the district with the least amount of average daily attendance.

SEC. 9. Section 78200 of the Education Code is amended to read:

78200. Courses of instruction and educational programs shall be prepared under the direction of the governing board of each community college district. Such educational programs shall be submitted to the board of governors for approval. Courses of instruction which are not offered in approved educational programs shall be submitted to the board of governors for approval. The district governing board shall establish policies for, and approve, individual courses which are offered in approved educational programs without referral to the board of governors.

The board of governors shall review, and may approve, all

educational programs and all courses which are required by this section to be submitted to it for approval.

For the purposes of this section, "course of instruction" means an instructional unit of an area or field of organized knowledge, usually provided on a quarter, semester, year, or prescribed length-of-time basis.

For the purposes of this section, "educational program" is an organized sequence of courses leading to a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

The provisions of this section apply to credit and noncredit classes of community colleges.

SEC. 10. Section 78201.5 is added to the Education Code, to read:

78201.5. (a) For the purposes of this article, a credit course is a course which is either:

(1) A requisite for the awarding of an associate degree.

(2) Determined to be of college level and is approved by the board of governors as part of a course of study leading toward an associate degree or is part of an occupational program beyond the high school level leading to an associate degree or occupational certificate or both and is taught by a credentialed instructor.

(3) Recognized by the University of California, the California State University and Colleges, or an accredited independent college or university in California as part of the required or elective preparation toward a major degree or as part of a general education requirement, and is subject to the published standards for matriculation, attendance, and achievement of the university, college, or system.

(b) Any course not within subdivision (a) is, for the purposes of this article, a noncredit course and shall be subject to the provisions of Chapter 3 (commencing with Section 78400) of this part.

SEC. 11. Section 78412 of the Education Code is amended to read:

78412. No state funds shall be apportioned to any community college district on account of the attendance of students enrolled in community college credit programs or noncredit courses unless the courses have been approved by the board of governors. Approval of courses for grades 13 and 14 shall be given in accordance with the provisions of Section 78200.

SEC. 12. Section 78462 of the Education Code is amended to read:

78462. (a) An adult enrolled in a noncredit course shall not be required by the governing board of the district maintaining the class to pay nonresident tuition or any fee or charge of any kind for a class in English and citizenship for foreigners, a class in an elementary subject, a class designated by the governing board as a class for which high school credit is granted when such class is taken by a person who does not hold a high school diploma, or any class offered by a community college district pursuant to Section 8531, 8532, 8533 or

8534.

(b) Subject to Section 84526, the average daily attendance of adults in classes described in subdivision (a) shall be computed as prescribed by Section 84520 or 84524.5.

SEC. 13. Section 84764 of the Education Code is amended to read:

84764. (a) If the total units of average daily attendance for the community college district computed pursuant to Sections 84520 and 84524.5 for the second principal apportionment in the 1977–78 fiscal year or years thereafter is equal to or greater than the total units of average daily attendance computed pursuant to Sections 84520 and 84524.5 for the prior year second principal apportionment, the chancellor's office shall apportion state aid to the district for its prior level of student attendance in accordance with subdivision (b) if the total units of average daily attendance are greater than 3,000, and subdivision (d) otherwise, and shall apportion additional state aid to the district for growth in student attendance between the prior year and the current year in accordance with subdivision (c) if the total units of average daily attendance are greater than 3,000, and subdivision (e) otherwise.

(b) For each community college district with more than 3,000 units of average daily attendance, the state apportionment for its prior year level of student attendance shall be computed as follows:

(1) Determine the amount of the prior year second principal apportionment to the district for student attendance computed pursuant to Sections 84520 and 84524.5.

(2) Multiply the amount determined in (1) by 0.06 times the equalization factor for the district determined pursuant to subdivision (f).

(3) Add the result of the computation in (2) to the amount of the prior year second principal apportionment to the district for student attendance computed pursuant to Sections 84520 and 84524.5.

(4) Multiply the amount determined in paragraph (3) by the demographic factor for the district determined pursuant to subdivision (g) of Section 84764. The result of this computation shall be the state apportionment to the district in the current year for the prior year level of student attendance.

(c) For each community college district with more than 3,000 units of average daily attendance for the prior fiscal year, the state apportionment in the current year for the growth in its student attendance between the prior year and the current year shall be computed as follows:

(1) Determine the amount of the prior year second principal apportionment to all community college districts for student attendance computed pursuant to Sections 84520 and 84524.5.

(2) Divide the amount determined in (1) by the total units of average daily attendance computed pursuant to Sections 84520 and 84524.5 for all community college districts on the prior year second principal apportionment.

(3) Multiply the result of the computation in (2) by 1.06 times the equalization factor for the district determined pursuant to subdivision (f) and the demographic factor for the district determined pursuant to subdivision (g).

(4) Determine the amount of the difference between the total units of average daily attendance for the district computed pursuant to Sections 84520 and 84524.5 on the prior year second principal apportionment and the total units of average daily attendance for the district computed pursuant to Sections 84520 and 84524.5 for the current year second principal apportionment.

(5) Multiply the result of the computation in (3) by the amount determined in (4). The result of the computation shall be the state apportionment to the district in the current year for the growth in the student attendance between the prior year and the current year. In no case shall this amount be less than one hundred twenty-five dollars ($125) times the increase in the total units of average daily attendance for the district determined in (4).

(d) For each community college district with less than 3,001 units of average daily attendance for the current fiscal year, the state apportionment for its prior fiscal year level of student attendance shall be computed as follows:

(1) Determine the total units of average daily attendance computed pursuant to Sections 84520 and 84524.5 for the second principal apportionment of the prior fiscal year and the current fiscal year.

(2) Determine a small district multiplier equal to 1.0 (a + bx) where

a = .47615

b = .0001746, and

x = the units of average daily attendance determined in paragraph (1) for the current fiscal year.

(3) Multiply the number determined in paragraph (2) by the number determined in paragraph (c) (3).

(4) Multiply the number determined in paragraph (3) by the units of average daily attendance determined in paragraph (1).

(5) The state apportionment to the district for its prior fiscal year level of student attendance is the greater of paragraph (4) or that amount determined by paragraph (b) (4).

(e) If the total units of average daily attendance for the current fiscal year are less than 3,001:

(1) Multiply the number determined in paragraph (c) (4) by the number determined in paragraph (d) (3).

(2) The state apportionment to the district in the 1977–78 fiscal year or fiscal years thereafter for the growth in its student attendance between the prior fiscal year and the current fiscal year shall be the greater of paragraph (1) and that determined by paragraph (c) (5).

(f) The equalization factor for a district shall be computed as follows:

(1) Divide the total modified assessed valuation for all community

college districts on the current year second principal apportionment by the total units of resident average daily attendance for all community college districts computed pursuant to Sections 84520 and 84524.5 for the current year second principal apportionment.

(2) Divide the modified assessed valuation for the district on the current year second principal apportionment by the total units of resident average daily attendance for the district computed pursuant to Sections 84520 and 84524.5 for the current year second principal apportionment.

(3) Divide the result of the computation in (1) by the result of the computation in (2). This amount shall be the equalization factor for the district. The maximum equalization factor for any district shall be 2.

(g) The demographic factor for a district shall be computed as follows:

(1) Divide the total units of resident average daily attendance for all community college districts on the current fiscal year second principal apportionment by the total adult population, excluding the population in state and federal correctional institutions and all persons residing in student housing associated with four-year educational institutions with an enrollment of 3,000 or more persons residing in military barracks, for all community college districts on January 1 of the current fiscal year as estimated by the Department of Finance in cooperation with the chancellor's office.

(2) Divide the units of resident average daily attendance for the district on the current fiscal year second principal apportionment by the total adult population, excluding the population in state and federal correctional institutions and all persons residing in student housing associated with four-year educational institutions with an enrollment of 3,000 or more persons residing in military barracks, of the district on January 1 of the current fiscal year as estimated by the Department of Finance in cooperation with the chancellor's office.

(3) Divide the result of the computation in (1) by the result of the computation in (2). This amount in no case shall be more than 1.5.

(4) The demographic factor shall be 1.0 for those districts whose value calculated in paragraph (3) is below the median of the values calculated in paragraph (3) and for all other districts shall be 1 plus that portion of the value calculated in (3) which results in a total state apportionment of four million dollars ($4,000,000) to those districts with a value as determined in paragraph (3) of this subdivision that exceeds the statewide median value for this calculation for the demographic factor.

SEC. 14. Section 84765 of the Education Code is amended to read:

84765. (a) If the total units of average daily attendance for the community college district computed pursuant to Sections 84520 and 84524.5 for the current year second principal apportionment is less than the total units of average daily attendance computed pursuant to Sections 84520 and 84524.5 for the prior year second principal

apportionment, the chancellor's office of the California Community Colleges shall compute the state apportionment to the district in accordance with subdivision (b) if the total units of average daily attendance for the prior year second principal apportionment is greater than 3,000, and in accordance with subdivision (c) otherwise.

(b) The state apportionment to each district with total units of average daily attendance for the prior year second principal apportionment greater than 3,000 shall be computed as follows:

(1) Determine the amount of the difference between the total units of average daily attendance for the district computed pursuant to Sections 84520 and 84524.5 on the prior year second principal apportionment and the total units of average daily attendance for the district computed pursuant to Sections 84520 and 84524.5 for the current year second principal apportionment.

(2) Determine the amount of the prior year second principal apportionment to the district for student attendance computed pursuant to Sections 84520 and 84524.5.

(3) Divide the amount determined in (2) by the total units of average daily attendance computed pursuant to Sections 84520 and 84524.5 for the district on the prior year second principal apportionment.

(4) Multiply the amount determined in (1) by the result of the computation in (3).

(5) Subtract the result of the computation in (4) from the amount of the prior year second principal apportionment to the district for student attendance computed pursuant to Sections 84520 and 84524.5.

(6) Multiply the result of the computation in (5) by 0.06 times the equalization factor for the district determined pursuant to subdivision (c) of Section 84764.

(7) Add the result of the computation in (6) to the result of the computation in (5).

(8) Multiply the amount determined in paragraph (7), by the demographic factor for the district determined pursuant to subdivision (g) of Section 84764. The result of this computation shall be the second principal apportionment to the district in the current year.

(c) For each community college district with less than 3,001 units of average daily attendance for the current fiscal year, the state apportionment shall be computed as follows:

(1) Determine the total units of average daily attendance computed pursuant to Sections 84520 and 84524.5 for the current fiscal year second principal apportionment.

(2) Determine a small district multiplier equal to $1.0/(a + bx)$ where

$a = .47615$

$b = .0001746$, and

$x =$ the units of average daily attendance determined in paragraph (1).

(3) Multiply the number determined in paragraph (2) by the number determined in paragraph (c) (3) of Section 84764.

(4) Multiply the number determined in paragraph (3) by the units of average daily attendance determined in paragraph (1).

(5) The state apportionment to the district shall be the greater of paragraph (4) or that amount determined by paragraph (b) (8).

SEC. 15. Section 85133.2 is added to the Education Code, to read:

85133.2. The county superintendent of schools shall calculate an increased or decreased maximum tax rate for a community college district computed under Section 85132 or 85133 due to adjustments made in average daily attendance pursuant to Sections 84040, 84330, 84331 and 84332 as shown in the chancellor's "Audit Resolution Report" pertaining to any audit conducted by the Department of Finance prior to the 1976–77 fiscal year.

SEC. 16. Section 2228.1 of the Revenue and Taxation Code is amended to read:

2228.1. (a) Annually, the Department of Finance shall transmit to each community college district an estimate of its annual percentage change in adult population. Such estimates shall indicate the percentage change in the resident population within the geographic boundaries of the district consistent with the geographic boundaries used to determine the assessed valuation for the current and budget fiscal years excluding the population in state and federal correctional institutions and all full-time enrollment associated with four-year educational institutions with an enrollment of 3,000 or more and persons residing in military barracks of each district between January 1 of the prior year and January 1 of the current year if possible, or between the fall school census week of the prior fiscal year and the fall school census week of the current year. Such statements shall be transmitted by May 15.

The Department of Finance may request data from any local agency to be used to prepare the population estimate required by this section. If any local agency fails to supply the requested data, the department is not required to provide an estimate for the school district affected, but may do so using the method deemed most appropriate by the department after first notifying the community college district.

(b) If the total population of a district as currently delineated was within 15 percent of the total population of one or more cities or counties or city and county each of whose population is 50 percent or more within the district as of the most recent federal special or decennial census or local census carried out under the Department of Finance supervision covering the area in question, it may apply to the Department of Finance for a special estimate of the percentage change in total population of the corresponding area for the past year. The department will prepare the estimate in accordance with the data and methods used pursuant to Section 2227 of the Revenue and Taxation Code and the district may use the estimate in lieu of the estimate prepared under subdivision (a) of this section.

SEC. 17. (a) The Legislature finds and declares that inclusion of the territory of Calaveras County in community college districts pursuant to the terms of Article 2 (commencing with Section 74010) of Chapter 1 of Part 46 of the Education Code has been delayed by pending litigation; that further delay is inimical to the purposes of the article; and that it is necessary fully and finally to resolve existing doubts concerning the effective date of inclusion of the territory in community college districts for all purposes, including assessment and taxation.

(b) Notwithstanding any other provision of law, the territory of the Bret Harte Union High School District and the territory of the former Copperopolis and Salt Spring Valley Elementary School Districts of Calaveras County are hereby annexed to and included in the Yosemite Community College District, effective, for all purposes, as of July 1, 1977.

(c) Notwithstanding any other provision of law, the territory of the Calaveras Unified School District, excluding the former Copperopolis and Salt Spring Valley Elementary School Districts of Calaveras County, is hereby annexed to and included in the San Joaquin Delta Community College District, effective, for all purposes, as of July 1, 1977.

(d) Notwithstanding Sections 54902, 54902.1, and 54903 of the Government Code, the statements, resolutions, and maps or plats required by Sections 54900, 54902, and 54903.1 shall be filed on or before December 31, 1977.

CHAPTER 916

An act to add Chapter 7 (commencing with Section 92660) to Part 57 of Division 9 of the Education Code, relating to the University of California.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Chapter 7 (commencing with Section 92660) is added to Part 57 of Division 9 of the Education Code, to read:

CHAPTER 7. COMPETITIVE BIDDING

Article 1. Construction

92660. As used in this article, "project" includes the erection, construction, alteration, repair, or improvement of any University of California structure, building, road or other improvement which will exceed in cost a total of fifteen thousand dollars ($15,000).

92661. Except as provided for in this article, the Regents of the University of California shall let any contract for a project to the lowest responsible bidder or else reject all bids. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the successful bidder for a project to execute a tendered contract, award it to the second lowest responsible bidder. If the second lowest bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder.

92662. The Regents of the University of California shall give public notice of a project to bidders by publication once a week for at least two consecutive weeks next preceding the day set for the receiving of bids as follows:

(a) In one newspaper of general circulation published in the county in which the major portion of the project is located and in one such trade paper circulated in the county in which the major portion of the work is to be done.

(b) The notices shall state the time and place for the receiving and opening of sealed bids, describe in general terms the work to be done, and describe the bidding mode by which the lowest responsible bidder will be selected.

92663. Before entering into any contract for a project, the Regents of the University of California shall cause to be prepared estimates and either:

(a) Complete plans and specifications setting forth such directions as will enable a competent mechanic or other builder to carry them out.

(b) Documents for the solicitation of bids on a design-and-build basis, including: (1) a program setting forth the scope of the project, the size, type, and desired design character of the buildings and the site, (2) a set of performance specifications covering the quality of materials, equipment, and workmanship, (3) a maximum acceptance cost, and (4) a method and grading system for evaluating contractor proposals on the basis of a preliminary design, outline specifications, a price, and the financial condition and relevant experience of the contractor and the contractor's architect.

(c) Documents for the solicitation of bids for construction manager mode of contracting including prequalification standards, schematic plans, and outline specifications indicating the general scope of the project and the designation of those fees and other fixed commitments upon which prequalified contractors will be invited to submit competitive bids which will serve as the basis for selection.

(d) Documents for the solicitation of bids on a cost-plus fee mode of contracting, including prequalification standards, outline specifications, and schematic drawings generally describing the scope of the work, a definition of reimbursable and nonreimbursable costs, and the designation of fees and other fixed costs upon which prequalified contractors will be invited to submit quotations which will provide the basis for selection.

(e) Documents for the solicitation of bids under such other contracting mode as the regents determine to be in the best interest of the university, provided that such proposals be compared on a uniform basis and that award be made as determined by the published selection standards.

92664. Except as otherwise provided in Section 92666, work on all projects shall be performed under contract awarded in accordance with Section 92661 except that it may be done on a time and materials basis, by contract upon informal bids, by University of California employees, by day labor under the direction of the regents, or by a combination thereof, in case of emergency due to an act of God, earthquake, flood, storm, fire, landslide, public disturbance, vandalism, or failure which causes damage to a university-owned building, university-owned real property or any improvements thereon, when such work or remedial measures are required immediately and are necessary to protect the public health, safety and welfare.

92665. The Regents of the University of California may perform projects with university employees if the regents deem that the award of a contract, the acceptance of bids or the acceptance of further bids is not in the best interests of the university, provided that (1) the estimated value of work to be so performed shall not exceed twenty thousand dollars ($20,000) or (2) the project is for the erection, construction, alteration, repair or improvement of experimental or diagnostic equipment, except that the provisions of this section shall not apply to the painting or repainting of a structure, building, road or improvement of any kind if the estimated value of such painting or repainting work exceeds ten thousand dollars ($10,000).

92666. The requirements of Sections 92661, 92662, and 92663 shall not be applicable to (1) any project of which the Regents of the University of California is only part owner, or (2) any project funded by a federal agency to the extent that requirements of Sections 92661, 92662, and 92663 are in conflict with mandatory requirements of such federal agency, or (3) projects performed pursuant to Section 92665.

Article 2. Materials, Goods and Services

92667. Except as provided for in this article, the Regents of the University of California shall let all contracts involving an expenditure of more than five thousand dollars ($5,000) annually for goods and materials to be sold to the University of California to the lowest responsible bidder meeting specifications, or else reject all bids. Contracts for services to be performed, other than personal or professional services, involving an expenditure of five thousand dollars ($5,000) or more annually shall be made or entered into with the lowest responsible bidder meeting specifications, or else all bids shall be rejected. If the regents deem it to be for the best interest of the university, the regents may, on the refusal or failure of the

successful bidder for materials, goods or services to execute a tendered contract, award it to the second lowest responsible bidder meeting specifications. If the second lowest responsible bidder fails or refuses to execute the contract, the regents may likewise award it to the third lowest responsible bidder meeting specifications.

92668. The requirements of this article shall not be applicable when the regents determine that a brand or trade name article, thing or product or proprietary service is the only one which will properly meet the needs of the University of California because the item or service is unique, available only from a sole source, or is designated to match others, used in or furnished to, a particular installation, facility, on location. Contracts for unique products or services, or personal or professional services, shall not be made unless the regents determine that the proposed price therefor is reasonable.

92669. The Regents of the University of California shall prescribe methods of procurement for goods, materials, and services to be purchased, including:

(a) Requirements for public advertisement where feasible and practicable or for solicitation from at least three sources in other cases.

(b) Bidder prequalification and evaluation standards.

(c) Guidelines for negotiating contracts for unique products or proprietary services.

(d) Procedures for solicitation of vendor and service contractor interest.

(e) Dissemination of award information.

(f) Such other matters as may encourage the receipt of the most favorable price and conditions of purchase by the university.

92670. The requirements of this article shall not be applicable to the procurement of goods, materials, or services funded exclusively by federal agencies to the extent that the requirements of this article are in conflict with mandatory requirements of such federal agency.

Article 3. Real Property

92671. The Regents of the University of California shall give public notice to bidders of the sale of University of California real property situated in California if the estimated value of the real property to be sold exceeds fifty thousand dollars ($50,000) net to the seller. Notice shall be by publication once a week for at least two consecutive weeks next preceding the day set for receiving bids, as follows:

(a) In a newspaper of general circulation published in the county in which the property is situated. If the property is situated in more than one county, then such publication shall be in the newspaper in the county containing the greatest area of the property.

(b) In two newspapers of general circulation, one published in Los Angeles and one in San Francisco.

(c) The published notices shall specify the general description of

the property and the conditions of sale, and the date and place for the receiving of sealed bids.

92672. On the date designated in the public notice, the sealed bids shall be publicly opened. The regents shall accept in public the bid which offers the combination of price and terms which it deems to be in the best interest of the university, or reject all bids.

92673. The publication and award procedures set forth in this article shall not be applicable to:

(a) The sale of an undivided or fractional ownership interest in real property.

(b) A sale of a right of use in real property which is less than fee ownership.

(c) A sale of real property subject to title conditions or restrictions on the university's ownership deriving from the origin of such ownership by gift, devise, or otherwise, if such sale would be inconsistent with such title conditions or restrictions.

(d) The disposition of realty originally acquired as part of an investment transaction pursuant to which the Regents of the University of California is contractually obligated to resell property to a specified party.

(e) A sale of public lands under the direction of the federal land agent.

(f) A sale to a person or entity which will dedicate the real property to public use.

(g) A sale of real property acquired after the effective date of this chapter through eminent domain proceedings initiated by the Regents of the University of California. In such cases, the person from whom the property was acquired shall be notified and be accorded an exclusive opportunity for 90 days to purchase the property at its fair market value. If the person fails to undertake proceedings to purchase the property within 90 days, the procedures specified in Sections 92671 and 92672 shall then be followed in the sale of the property.

CHAPTER 917

An act to add Section 31000.4 to the Government Code, relating to counties, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 31000.4 is added to the Government Code, to read:

31000.4. The board of supervisors may contract with temporary help firms for temporary help to assist county agencies, departments, or offices during any peak load, temporary absence, or emergency other than a labor dispute, provided the board determines that it is in the economic interest of the county to provide such temporary help by contract, rather than employing persons for such purpose. Use of temporary help under this section shall be limited to a period of not to exceed 90 days for any single peak load, temporary absence, or emergency situation.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for counties to be able to adequately handle problems relating to the use of temporary help in the event local agency employees are granted the benefits of the unemployment insurance laws, it is necessary that this act take effect immediately.

CHAPTER 918

An act to amend Sections 3700, 3701, 3702, and 3704 of the Fish and Game Code, relating to migratory birds, and making an appropriation therefor.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 3700 of the Fish and Game Code is amended to read:

3700. It is unlawful for any person, except a person licensed pursuant to subdivision (b) of Section 3031, to take any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves and band-tailed pigeons, without first procuring a state duck stamp and having such stamp in his possession while taking such birds.

State duck stamps shall be sold for a fee of five dollars ($5) by the department, and persons authorized by the department, in the same manner as hunting licenses. The commission shall determine the form of such duck stamps pursuant to Section 1050.

SEC. 2. Section 3701 of the Fish and Game Code is amended to read:

3701. All funds derived from the sale of state duck stamps shall be deposited in the Fish and Game Preservation Fund. The department shall maintain a State Duck Stamp Account to permit separate

accountability for the receipt and expenditure of funds derived from the sale of state duck stamps. An amount not to exceed 5 percent of such funds may be used to reimburse the department for the costs of administering this article. Such amount shall be in addition to compensation allowed persons authorized to issue and sell licenses pursuant to Section 1055.

SEC. 3. Section 3702 of the Fish and Game Code is amended to read:

3702. Funds deposited in the State Duck Stamp Account shall be used for projects approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding habitat. The commission may enter into contracts with nonprofit organizations for the use of such funds outside the state, or outside the United States, when it finds such contracts are necessary for carrying out the purposes of this article.

SEC. 4. Section 3704 of the Fish and Game Code is amended to read:

3704. At least 45 percent of the funds shall be allocated by the commission for the preservation of waterfowl habitat in those areas of Canada from which come substantial numbers of waterfowl migrating to or through California. The available balance of the funds, if any exist, may be used for protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding habitat in California, provided that any lands acquired in California with such funds shall be open to waterfowl hunting as a public shooting ground or wildlife management area.

CHAPTER 919

An act to amend Sections 391, 745, 746, 747, 749, 751, 751.1, 752, 754, 755, 756, 757, 759, and 759.3 of, to add Sections 746.1, 746.2, 746.3, and 747.1 to, to repeal and add Sections 748 and 753 of, and to repeal Section 750 of, the Streets and Highways Code, relating to highways, and making an appropriation therefor.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 391 of the Streets and Highways Code is amended to read:

391. Route 91 is from Route 1 near Hermosa Beach to Route 194 via Santa Ana Canyon.

SEC. 2. Section 745 of the Streets and Highways Code is amended to read:

745. The Legislature hereby finds and declares that:

(a) The establishment, use, and maintenance of junkyards in areas

adjacent to any interstate or primary highway should be controlled in order to promote the safety and recreational value of public travel, to protect the public investment in such highways, and to preserve the natural beauty of areas adjacent to such highways. The Legislature finds that motorists are distracted by unscreened junkyards adjacent to such highways and that a junkyard visible from such a highway constitutes a hazard to the safety of the traveling public.

(b) It is the intent of the Legislature, by the enactment of this article, to provide for the state control of junkyards required by Section 136 of Title 23 of the United States Code.

(c) The recycling industry plays an important role in the conservation of our state resources. In support of that role, should removal of junk or scrap from a nonconforming junkyard be necessary because such junk or scrap is visible from any interstate or primary highway, then the department may either purchase such junk or scrap and move it to a recycling center or pay the costs of moving the junk or scrap to a recycling center, whichever is less expensive.

SEC. 3. Section 746 of the Streets and Highways Code is amended to read:

746. As used in this article:

(a) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, junked, dismantled or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(c) "Junkyard" means any establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, autowrecking yards, salvage yards, scrap yards, auto recycling yards, used auto parts yards, and temporary storage of automobile bodies and parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. The definition also includes garbage dumps and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(d) "Scrap metal processing facility" means any establishment or place of business which is maintained, used, or operated solely for the processing and preparing of scrap metals for remelting by steel mills and foundries.

(e) "Automobile dismantling facility" means any establishment or place of business which is maintained, used, or operated by an "automobile dismantler," as defined in the Vehicle Code, for the

buying, selling, or dealing in vehicles of a type required to be registered under the Vehicle Code for the purpose of dismantling such vehicles and for the buying or selling of the integral parts and component materials of such vehicles.

(f) "Special conditions" are any of the following which have occurred after October 6, 1966: (1) physical changes which occur within a state-owned right-of-way which cause a junkyard to become visible, such as the failure to maintain screening within the right-of-way or the reconstruction of the highway, (2) the classification of a highway as interstate or primary, or (3) redesignation of an industrial zone to some other zoning classification.

(g) "Visible" means capable of being seen without visual aid by a person of normal visual acuity while driving on the main traveled way of an interstate or primary highway.

(h) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by appropriate authority of the federal government.

(i) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by appropriate authority of the federal government.

(j) "Recycle" means either:

(1) Purchasing junk and moving it to an automobile wrecker or scrap processor, or putting it to some other useful purpose, or

(2) Paying the costs of moving such junk to an automobile wrecker or scrap processor or to a place where it will be put to some useful purpose.

SEC. 4. Section 746.1 is added to the Streets and Highways Code, to read:

746.1. "Nonconforming junkyard" means either of the following:

(a) A junkyard lawfully in existence on October 6, 1966, but which does not conform to the requirements of this article.

(b) A junkyard which is lawfully in existence at any time but later fails to comply with the requirements of this article due to special conditions as defined in subdivision (f) of Section 746.

SEC. 5. Section 746.2 is added to the Streets and Highways Code, to read·

746.2. Nonconforming junkyards may continue in existence as long as they are not extended, enlarged, or changed in use, and are otherwise lawfully maintained.

If the location of a nonconforming junkyard is changed for any reason, it ceases to be nonconforming and shall be treated as a new junkyard at a new location.

SEC. 6. Section 746.3 is added to the Streets and Highways Code, to read:

746.3. An illegal junkyard is one which is either:

(a) Established or is maintained in violation of this article and does not come within the definition of a "nonconforming junkyard," as

defined in Section 746.1.

(b) A junkyard which becomes visible due to inadequate maintenance of screening located off the highway right-of-way, or the placement of junk so that it may be seen above or beyond the screen, or otherwise becomes visible.

(c) A junkyard which, due to any conditions other than those described in subdivision (f) of Section 746, is established or maintained in violation of this article.

SEC. 7. Section 747 of the Streets and Highways Code is amended to read:

747. Except as hereafter provided, no junkyard shall be established, operated, or maintained if any portion of the junkyard is within 1,000 feet of the nearest edge of the right-of-way and visible from the main traveled way of any interstate or primary highway and is not located in an area zoned for industrial purposes.

SEC. 8. Section 747.1 is added to the Streets and Highways Code, to read:

747.1. Sanitary landfills need not be screened to satisfy the requirements of this article but landscaping shall be required when the fill has been completed and operations have ceased, unless the landfill area is to be used for immediate development purposes.

SEC. 9. Section 748 of the Streets and Highways Code is repealed.

SEC. 10. Section 748 is added to the Streets and Highways Code, to read:

748. (a) Any nonconforming junkyard, as soon as the maximum federal share under Section 136 of Title 23, United States Code, is available for that purpose, shall be removed from sight of interstate or primary highways by any of the following methods to whatever extent is required, so as not to be visible from the main traveled way of any interstate or primary highway:

(1) Screening by natural objects, plantings, fences, or other appropriate means.

(2) Recycling, as defined in subdivision (j) of Section 746.

(3) Relocation.

(b) This section applies if any portion of such junkyard is within 1,000 feet of the nearest edge of the right-of-way and if it is visible from the main traveled way of such highway. The department shall screen such junkyards at locations on the highway right-of-way or in areas acquired for such purpose adjacent to the right-of-way or may compensate the junkyard owner for the placement of screening on the junkyard property.

SEC. 11. Section 749 of the Streets and Highways Code is amended to read:

749. The department may also screen any junkyards located within 1,000 feet of the nearest edge of the right-of-way of an interstate or primary highway and located within an industrial zone if the director finds that such screening is necessary or desirable to achieve the purposes set forth in subdivision (a) of Section 745.

SEC. 12. Section 750 of the Streets and Highways Code is repealed.

SEC. 13. Section 751 of the Streets and Highways Code is amended to read:

751. The department is authorized to acquire such interests in real and personal property as may be necessary to effect the screening, recycling, relocation, removal, or disposal of junkyards required by the provisions of this article.

SEC. 14. Section 751.1 of the Streets and Highways Code is amended to read:

751.1. The Legislature hereby declares that the acquisition of interests in real and personal property to effect the screening, relocation, removal, or disposal of junkyards provided for in Section 751 constitutes a public use and purpose.

SEC. 15. Section 752 of the Streets and Highways Code is amended to read:

752. If federal law should be interpreted as requiring the states to pay just compensation with regard to the relocation, removal, or disposal of junkyards, just compensation shall be paid by the department to the owners of nonconforming junkyards which must be relocated, removed, or disposed of pursuant to the provisions of this article.

SEC. 16. Section 753 of the Streets and Highways Code is repealed.

SEC. 17. Section 753 is added to the Streets and Highways Code, to read:

753. The commission is authorized to allocate funds from the State Highway Account in the State Transportation Fund for all of the following purposes:

(a) Costs of administering the provisions of this article.

(b) Costs of maintaining only that screening which is located on state right-of-way.

(c) Costs necessary to match the maximum contribution allowed by the federal government in carrying out the purposes of this article.

SEC. 18. Section 754 of the Streets and Highways Code is amended to read:

754. Any junkyard which is established or maintained in violation of the provisions of this article or the regulations prescribed thereunder is a public nuisance and may be removed or otherwise disposed of by any public employee or entity.

SEC. 19. Section 755 of the Streets and Highways Code is amended to read:

755. The director may screen, relocate, remove or dispose of any illegal junkyard after 30 days' written notice posted on such property and a copy forwarded by mail to the owner of such junkyard at his last-known address. The department shall have an action to recover the expense of such screening, relocating, removing or disposing, costs and expenses of suit, and, in addition thereto, the sum of one

hundred dollars ($100) for each day such junkyard or portion thereof, remains in violation after the expiration of 30 days from the time of forwarding such written notice.

For the purposes of this section, the director or his authorized agent may enter upon private property.

All costs incurred under this section in screening, relocating, removing or disposing of such junkyards shall be the responsibility of the owners thereof.

SEC. 20. Section 756 of the Streets and Highways Code is amended to read:

756. Every illegal junkyard is a public nuisance and every person, as principal, agent or employee, violating any of the provisions of this article or the regulations prescribed thereunder is guilty of a misdemeanor.

SEC. 21. Section 757 of the Streets and Highways Code is amended to read:

757. The remedies provided in this article for the removal of junkyards are cumulative and not exclusive of any other remedies provided by law.

SEC. 22. Section 759 of the Streets and Highways Code is amended to read:

759. The director shall prescribe and enforce regulations governing the establishment, screening, relocation, removal, or disposal of junkyards as provided in this article consistent with the provisions of Section 136 of Title 23 of the United States Code and the national standards promulgated thereunder by the Secretary of Transportation.

SEC. 23. Section 759.3 of the Streets and Highways Code is amended to read:

759.3. It is declared to be the intent of the Legislature in enacting this article to establish minimum standards with respect to the regulation of outdoor junkyards. The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on junkyards equal to or greater than those imposed by this article.

SEC. 24. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 920

An act to amend Sections 37915, 41060, 41558, 50096, and 51311 of, and to add Sections 37912.5, 37924.5, 41066.5, 42062.5, 50104.5, and 51852.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 37912.5 is added to the Health and Safety Code, to read:

37912.5. Unless the context otherwise requires, "systematic enforcement," as used in this part, means the enforcement of rehabilitation standards in accordance with a systematic program of making inspections of dwelling structures in accordance with objective criteria for selection or order of selection of dwelling structures to be inspected. Systematic enforcement may be limited to rental or multifamily dwellings. It does not refer to a policy of responding only to complaints and requests for inspections. It does not include inspections where violations are not cited. It does not include the concentrated enforcement of rehabilitation standards in a designated geographic area within the jurisdiction.

SEC. 2. Section 37915 of the Health and Safety Code is amended to read:

37915. A local agency may determine the location and character of any residential rehabilitation to be financed under the provisions of this part and may lend financial assistance to any participating party for the purpose of financing residential rehabilitation in areas designated as residential rehabilitation areas by the local agency, or for the purpose of financing residential rehabilitation outside such areas, as provided in Section 37922.1 or 37924.5.

SEC. 3. Section 37924.5 is added to the Health and Safety Code, to read:

37924.5. The local agency may include, in the comprehensive residential rehabilitation financing program adopted by ordinance or resolution pursuant to Section 37922, criteria for selection or order of selection of dwelling structures to be inspected in a systematic enforcement program to be carried out citywide or countywide in addition to the concentrated enforcement of rehabilitation standards in one or more residential rehabilitation areas, during the period in which such concentrated enforcement is carried out. Guidelines for financing residential rehabilitation of residences subjected to systematic enforcement shall be subject to the financing limitations prescribed by subdivision (d) of Section 37922. The comprehensive residential rehabilitation financing program shall, in such case, provide notice and opportunities to be involved in planning and operation of the program to persons potentially affected by the

systematic enforcement program.

SEC. 4. Section 41060 of the Health and Safety Code is amended to read:

41060. "Rehabilitation" means repairs and improvements to a substandard residential structure necessary to make it meet rehabilitation standards. As used in this section, "substandard residential structure" has the same meaning as the term "substandard building," as defined in subdivision (f) of Section 17920.

SEC. 5. Section 41066.5 is added to the Health and Safety Code, to read:

41066.5. "Systematic enforcement" means the enforcement of rehabilitation standards in accordance with a systematic program of making inspections of dwelling structures in accordance with objective criteria for selection or order of selection of dwelling structures to be inspected. Systematic enforcement may be limited to rental or multifamily dwellings. It does not refer to a policy of responding only to complaints and requests for inspections. It does not include inspections where violations are not cited. It does not include the concentrated enforcement of rehabilitation standards in a designated geographic area within the jurisdiction.

SEC. 6. Section 41558 of the Health and Safety Code is amended to read:

41558. Upon application by a local public entity the agency may agree to allocate funds for neighborhood improvement loans or mortgage loans for rehabilitation of residential structures or housing developments as required in a citywide or countywide program of systematic enforcement of rehabilitation standards. The agreement between the local public entity and the agency shall provide for notice to potentially affected owners and tenants and for an opportunity for participation by them in the determination of criteria for selection or order of selection of dwelling units to be inspected and rehabilitated. Such assistance may be administered by the local public entity or the agency.

SEC. 7. Section 42062.5 is added to the Health and Safety Code, to read:

42062.5. Upon application by a local public entity the agency may agree to provide loan insurance pursuant to this part for the insurance of loans for rehabilitation of residential structures as required in a citywide or countywide program of systematic enforcement of rehabilitation standards. The agreement between the local public entity and the agency shall provide for notice to potentially affected owners and tenants and for an opportunity for participation by them in the determination of criteria for selection or order of selection of dwelling units to be inspected and rehabilitated. Such assistance may be administered by the local public entity or the agency.

SEC. 8. Section 50096 of the Health and Safety Code, as added by Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature,

is amended to read:

50096. "Rehabilitation" means repairs and improvements to a substandard residential structure necessary to make it meet rehabilitation standards. As used in this section, "substandard residential structure" has the same meaning as the term "substandard building," as defined in subdivision (f) of Section 17920.

SEC. 9. Section 50104.5 is added to Division 31 (commencing with Section 50000) of the Health and Safety Code, as added by Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature, to read:

50104.5. "Systematic enforcement" means the enforcement of rehabilitation standards in accordance with a systematic program of making inspections of dwelling structures in accordance with objective criteria for selection or order of selection of dwelling structures to be inspected. Systematic enforcement may be limited to rental or multifamily dwellings. It does not refer to a policy of responding only to complaints and requests for inspections. It does not include inspections where violations are not cited. It does not include the concentrated enforcement of rehabilitation standards in a designated geographic area within the jurisdiction.

SEC. 10. Section 51311 of the Health and Safety Code, as added by Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature, is amended to read:

51311. Upon application by a local public entity the agency may agree to allocate funds for neighborhood improvement loans or mortgage loans for rehabilitation of residential structures or housing developments as required in a citywide or countywide program of systematic enforcement of rehabilitation standards. The agreement between the local public entity and the agency shall provide for notice to potentially affected owners and tenants and for an opportunity for participation by them in the determination of criteria for selection or order of selection of dwelling units to be inspected and rehabilitated. Such assistance may be administered by the local public entity or the agency.

SEC 11. Section 51852.5 is added to Division 31 (commencing with Section 50000) of the Health and Safety Code, as added by Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature, to read:

51852 5. Upon application by a local public entity the agency may agree to provide loan insurance pursuant to this part for the insurance of loans for rehabilitation of residential structures as required in a citywide or countywide program of systematic enforcement of rehabilitation standards. The agreement between the local public entity and the agency shall provide for notice to potentially affected owners and tenants and for an opportunity for participation by them in the determination of criteria for selection or order of selection of dwelling units to be inspected and rehabilitated. Such assistance may be administered by the local

public entity or the agency.

SEC. 12. If Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature is chaptered and becomes effective January 1, 1978, then Sections 8, 9, 10, and 11 of this act shall be operative and Sections 4, 5, 6, and 7 of this act shall not become operative; if SB 1123 is not chaptered and effective January 1, 1978, Sections 4, 5, 6, and 7 of this act shall become operative and Sections 8, 9, 10, and 11 of this act shall not be operative.

CHAPTER 921

An act to amend Sections 1154, 1819, 5096, 5546, 6487, 6812, 6901, 6902, 6981, 8126, 8191, 9151, 9154, 12951, 12977, 30361, 30421, 32401, 32440, 40111, 40121, 41100, and 41107 of, to add Sections 6361.5 and 32452.1 to, and to repeal Section 7654 of, the Revenue and Taxation Code, and to amend Section 3 of Chapter 173 of the Statutes of 1977, relating to taxation.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 1154 of the Revenue and Taxation Code is amended to read:

1154. (a) As used in this section, "air taxi" means aircraft used by an air carrier which does not utilize aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds in air transportation and which does not hold a certificate of public convenience and necessity or other economic authority issued by the Civil Aeronautics Board of the United States, or its successor, or by the California Public Utilities Commission, or its successor.

(b) Air taxis which are operated in scheduled air taxi operations are not subject to the provisions of Part 10 (commencing with Section 5301) of this division and shall be assessed in accordance with the allocation formula set forth in Section 1152.

(c) All other air taxis shall be assessed in the county where the aircraft is habitually situated in the same manner and at the same ratio as other personal property in the county subject to general property taxation. Such aircraft shall be taxed at the same rate and in the same manner as all other property on the unsecured roll.

SEC. 1.1. Section 1819 of the Revenue and Taxation Code is amended to read:

1819. (a) As soon as tabulations have been made pursuant to Section 1818, the board shall give the assessor of each county a reasonable opportunity to examine that portion of the tabulations affecting property in this county. The assessor may, prior to August

1st, petition the board for reconsideration of the tabulations for his county and, if he has so requested in his petition, shall be granted an oral hearing by the board itself. After making any adjustment it deems appropriate, but not later than August 23rd, the board shall make available for public inspection all such tabulations and shall publish the ratio of assessed to full value of all locally assessable property for each county and for the state. "Tabulations" do not include appraisal data relating to individual properties.

(b) On or before May 15 of the following calendar year, the board shall publish a corrected ratio of assessed value to full value of all locally assessable property for each county and for the state.

This corrected ratio shall reflect changes in the total assessed value on the roll for the current fiscal year made by the assessor, auditor, county board of supervisors, and county board of equalization.

This corrected ratio shall be used to calculate a corrected factor pursuant to Education Code Sections 41201 and 84200, and such corrected factor shall be certified to the Superintendent of Public Instruction on or before May 20. The superintendent shall use this factor in computing or recomputing the amount of school aid to which each school district in the state is entitled.

The corrections needed in the amount of state aid to school districts as a result of the recomputations shall be made in the apportionment not later than the following fiscal year.

The corrected ratio shall not be used for the purposes of Section 1605.

In computing the ratio of assessed value to the full value for any county, pursuant to Section 1817 and subdivision (a) of this section, the board shall not consider in any way the reduction of assessed value as a result of equalization for the previous assessment year.

SEC. 1.2. Section 5096 of the Revenue and Taxation Code is amended to read:

5096. On order of the board of supervisors, any taxes paid before or after delinquency shall be refunded if they were:

(a) Paid more than once.

(b) Erroneously or illegally collected.

(c) Illegally assessed or levied.

(d) Paid on an assessment in excess of the ratio of assessed value to the full value of the property as provided in Section 401 by reason of the assessor's clerical error or excessive or improper assessments attributable to erroneous property information supplied by assessee.

(e) Paid on an assessment of improvements when the improvements did not exist on the lien date.

(f) Paid on an assessment in excess of the equalized value of the property as determined pursuant to Section 1613 by the county board of equalization.

SEC. 1.3. Section 5546 of the Revenue and Taxation Code, as added by Chapter 173 of the Statutes of 1977 is amended to read:

5546. Livestock shall be exempted from the tax imposed by this part for any period declared by the Governor, or by the President

or a federal official at the request of the Governor, to be a drought emergency, commencing on the first day of the month immediately following such declaration, and such exemption shall apply with respect to declarations in effect on the effective date of this section.

Livestock shall not be exempted by this section with regard to any declaration of a drought emergency for any period exceeding 12 months, unless, at the end of a 12-month period during which such exemption applies, the Governor declares that such drought emergency still exists. If such declaration is made, such exemption shall be applied for the next 12-month period or until such drought emergency is declared not to exist.

This section shall apply only to livestock owned by an owner (1) whose average gross income from farming in the immediately preceding three tax years is at least 75 percent of the average total gross income from all sources for such years, (2) whose annual average net taxable income for the immediately preceding three tax years does not exceed forty thousand dollars ($40,000), and (3) if such owner is a corporation or partnership, then, in addition to the above requirements, this section shall apply only if a majority interest in such corporation or partnership is held by stockholders or partners who themselves are primarily and directly engaged in agricultural production.

SEC. 1.4. Section 3 of Chapter 173 of the Statutes of 1977 is amended to read:

Sec. 3. The Controller shall report to the Legislature on the amount of the claims made by county auditors which are filed according to the procedure provided in subdivision (b) of Section 16113 of the Government Code for compensation for tax revenues lost by reason of the exemption provided by Section 1 of this act, in order that the Legislature may appropriate funds for the reimbursement of local agencies for tax revenues lost by them pursuant to this act.

SEC. 1.5. Section 6361.5 is added to the Revenue and Taxation Code, to read:

6361.5. Any public or private school, school district or student organization is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to yearbooks and catalogs prepared for or by it and distributed to students.

SEC. 2. Section 6487 of the Revenue and Taxation Code is amended to read:

6487. For taxpayers filing returns on other than an annual basis, except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the calendar

month following the quarterly period for which the amount is proposed to be determined.

For taxpayers filing returns on an annual basis, except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined.

The limitation specified in this section does not apply in case of a sales tax proposed to be determined with respect to sales of property for the storage, use, or other consumption of which notice of a deficiency determination has been or is given pursuant to Sections 6486, 6515, and 6537 and to the first paragraph of this section. The limitation specified in this section does not apply in case of an amount of use tax proposed to be determined with respect to storage, use, or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to Sections 6486, 6515, and 6537 and to the first paragraph of this section.

SEC. 3. Section 6812 of the Revenue and Taxation Code is amended to read:

6812. If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than 90 days after receiving the request or 90 days from the date of the sale of the business or stock of goods, whichever period expires later, the board shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the board of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the person sells out his business or stock of goods or at the time that the determination against the person becomes final whichever event occurs the later.

SEC. 4. Section 6901 of the Revenue and Taxation Code is amended to read:

6901. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the

records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his successors, administrators, or executors.

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1, Chapter 3, of this part shall be credited or refunded by the state to the purchaser.

SEC. 5. Section 6902 of the Revenue and Taxation Code is amended to read:

6902. (a) For taxpayers filing returns on other than an annual basis, except as provided in subdivision (b) no refund shall be approved by the board after three years from the last day of the month following the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 6481), 3 (commencing with Section 6511), or 4 (commencing with Section 6536) of Chapter 5 of this part, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within such period.

For taxpayers filing returns on an annual basis, except as provided in subdivision (b) no refund shall be approved by the board after three years from the last day of the calendar month following the one-year period for which the overpayment was made, or with respect to determinations made under Article 2 (commencing with Section 6481), 3 (commencing with Section 6511), or 4 (commencing with Section 6536) of Chapter 5 of this part, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within such period. No credit shall be approved by the board after the expiration of such period unless a claim for credit is filed with the board within such period, or unless the credit relates to a period for which a waiver is given pursuant to Section 6488.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 6488 if a claim therefor is filed with the board before the expiration of the period agreed upon.

SEC. 6. Section 6981 of the Revenue and Taxation Code is amended to read:

6981. If any amount in excess of five thousand dollars ($5,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 7. Section 7654 of the Revenue and Taxation Code is repealed.

SEC. 7.1. Section 8126 of the Revenue and Taxation Code is amended to read:

8126. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected and, if the State Board of Control approves, shall certify the amount to the Controller for credit or refund.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may certify the amount to the Controller for credit or refund.

SEC. 7.2. Section 8191 of the Revenue and Taxation Code is amended to read:

8191. If the board determines that any amount in excess of five thousand dollars ($5,000) has been illegally determined to be due from any person either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board and the Controller. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the Controller and the board.

SEC. 8. Section 9151 of the Revenue and Taxation Code is amended to read:

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set

forth that fact in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. If the State Board of Control approves, the excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him under this part.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his successors, administrators, or executors.

Any overpayment of the tax by a user to a vendor who is required to collect the tax and who gives the user a receipt therefor pursuant to Section 8732 shall be credited or refunded by the state to the user.

SEC. 9. Section 9154 of the Revenue and Taxation Code is amended to read:

9154. In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may authorize the person to deduct the balance from any amounts to become due from him under this part.

SEC. 10. Section 12951 of the Revenue and Taxation Code is amended to read:

12951. If an amount in excess of five thousand dollars ($5,000) has been illegally assessed, the board shall set forth that fact in its records and certify to the State Board of Control the amount assessed in excess of the amount legally assessed and the insurer against whom the assessment was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the Controller and the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally assessed, the board, without certifying this fact to the State Board of Control, shall authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer of any cancellation authorized.

SEC. 11. Section 12977 of the Revenue and Taxation Code is amended to read:

12977. If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally

collected or computed, the board shall set forth that fact in its records of the board and shall certify to the State Board of Control the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid. If approved by the State Board of Control, the excess shall be certified to the Controller for credit or refund. In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may certify the amount to the Controller for credit or refund. The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer under this part and refund the balance.

SEC. 12. Section 30361 of the Revenue and Taxation Code is amended to read:

30361. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board, without obtaining approval of the State Board of Control, may credit such amount on any amounts then due and payable under this part from the person by whom the amount was paid and shall refund the balance to the person or his successors, administrators or executors.

SEC. 13. Section 30421 of the Revenue and Taxation Code is amended to read:

30421. If any amount in excess of five thousand dollars ($5,000) has been illegally determined, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 14. Section 32401 of the Revenue and Taxation Code is amended to read:

32401. If the board determines that any amount of tax, penalty, or

interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his successors, administrators, or executors.

SEC. 15. Section 32440 of the Revenue and Taxation Code is amended to read:

32440. If any amount in excess of five thousand dollars ($5,000) has been illegally determined, either by the person filing the return or by the board, the board shall certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined, either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 16. Section 32452.1 is added to the Revenue and Taxation Code, to read:

32452.1. For all purposes of this part, when records are maintained in liters the equivalent measure in wine gallons shall be determined by multiplying total liters by a conversion factor of 0.26417 for wine, and by a conversion factor of 0.264172 for distilled spirits.

SEC. 17. Section 40111 of the Revenue and Taxation Code is amended to read:

40111. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his successors, administrators, or executors.

Any overpayment of the surcharge by a consumer to the state shall be credited or refunded by the state to the consumer.

SEC. 18. Section 40121 of the Revenue and Taxation Code is amended to read:

40121. If any amount in excess of five thousand dollars ($5,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 19. Section 41100 of the Revenue and Taxation Code is amended to read:

41100. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his successors, administrators, or executors.

Any overpayment of the surcharge by a service user to a service supplier who is required to collect the surcharge shall be credited or refunded by the state to the service user; provided however, that if the service supplier has paid the amount to the board and establishes to the satisfaction of the board that it has not collected the amount from the service user or has refunded the amount to the service user,

the overpayment may be credited or refunded by the state to the service supplier.

SEC. 20. Section 41107 of the Revenue and Taxation Code is amended to read:

41107. If any amount in excess of five thousand dollars ($5,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 21. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act nor shall the state reimburse any city or county by reason of Section 1 of this act because there is no actual revenue loss to such local agencies.

CHAPTER 922

An act to add Section 7401 to the Government Code, relating to clothing.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 7401 is added to the Government Code, to read:

7401. The Legislature finds and declares that results from recent research and testing by the federal government indicate the chemical tris (2, 3-dibromopropyl) phosphate, hereafter referred to as "Tris," which is widely used in children's sleepwear as a flame retardant, may be a cancer-causing agent.

The State Fire Marshal shall adopt regulations prohibiting the use of Tris in all clothing. The State Fire Marshal, in conjunction with the Department of Consumer Affairs, shall prepare and disseminate information to consumers on how to identify clothing, including children's clothing subject to the provisions of Section 7400, which has been treated with Tris or any other flame-retardant chemicals used in the manufacture of consumer products which a state or federal agency has determined under state or federal law to be a health hazard of sufficient magnitude to warrant prohibition of their manufacture or sale.

CHAPTER 923

An act to add Section 66427.2 to the Government Code, relating to subdivisions.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 66427.2 is added to the Government Code, to read:

66427.2. Unless applicable general or specific plans contain definite objectives and policies, specifically directed to the conversion of existing buildings into condominium projects, the provisions of Sections 66473.5 and 66474 shall not apply to condominium projects which consist of the subdivision of airspace in an existing structure, unless new units are to be constructed or added.

This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects.

CHAPTER 924

An act to amend the heading of Part 5 (commencing with Section 14000) and of Article 5 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 1 of, to amend Sections 14002, 14010, 14020, 14024, and 14040 of, and to add Sections 14028, 14028.1, 14028.2, 14028.3, and 14028.4 to, and to add Article 3.6 (commencing with Section 14029) and Article 9.5 (commencing with Section 14084) to Chapter 1 of Part 5 of Division 3 of, and Section 14048 to, and to repeal Sections 14028, 14028.1, 14028.2, 14028.3, and 14028.4 of, and Article 3.6 (commencing with Section 14029) and Article 9.5 (commencing with Section 14084) of Chapter 1 of Part 5 of Division 3 of, and Section 14048 of, the Corporations Code, relating to the California Job Creation Program, and making an appropriation therefor.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. The heading of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code is amended to read:

PART 5. CALIFORNIA OFFICE OF SMALL BUSINESS DEVELOPMENT

SEC. 1.5. Section 14002 of the Corporations Code is amended to read:

14002. It is the intention of the Legislature in enacting this part to promote the economic development of small businesses by making available capital, management assistance and other resources, including loan services, personnel and business education to small business entrepreneurs for the purpose of promoting the health, safety, and social welfare of the citizens of California, to eliminate unemployment of the economically disadvantaged of the state, and to stimulate economic development, employment, minority group and disabled persons entrepreneurship. It is the further intent of the Legislature to provide a flexible means to mobilize and commit all available and potential resources in the various regions of the state to fulfill these objectives. It is the further intent of the Legislature that corporations operating pursuant to this law, shall to the maximum extent feasible, coordinate with other job and business development efforts within their region directed toward implementing the purpose of this part.

SEC. 2. Section 14010 of the Corporations Code is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California Small Business Development Corporation created pursuant to the provisions of this part.

(b) "Financial institution" means banking organizations including national banking associations and state-chartered commercial banks and trust companies; savings and loan associations; state insurance companies; mutual insurance companies; and other banking, loaning, retirement, and insurance organizations.

(c) "Economically disadvantaged area" means the area or areas within the region of a corporation consisting of those contiguous census tracts within urbanized areas as defined by the most recent federal decennial census, in which 20 percent or more of the families were reported by the most recent federal decennial census to have income of less than six thousand dollars ($6,000) per year, or comparable areas which because of technical factors, cannot be isolated by census tracts. The definition set forth in this subdivision shall be reviewed periodically and the board shall recommend necessary changes to the Legislature and the Governor.

(d) "Area of high youth unemployment and high youth delinquency" shall be defined by the board.

(e) "Region" means an area containing a population of not less than 500,000 and including within its boundaries one or more economically disadvantaged areas, and in which members of a corporation conduct normal business operations.

(f) "Small business" means a business defined as an eligible small

business as set forth in Section 121.30-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations.

(g) "Employment incentive loan" means a loan for the purpose of attracting new business to, or expanding an existing business, which will result in the employment of at least 15 persons who are either persons residing in economically disadvantaged areas or youths residing in areas of high youth unemployment and high youth delinquency.

(h) "Member" means any financial institution, nonprofit organization, or other business authorized to operate within this state which undertakes to lend money or make available other resources to a corporation in accordance with the provisions of this chapter.

(i) "Other resources" means monetary contributions, donation of consultants, personnel, facilities, equipment, loan services, and other items or services as defined by the corporation.

(j) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on every loan application pursuant to Article 7.5 (commencing with Section 14066) of this chapter.

(k) "Membership agreement" means an agreement between a corporation and any financial institution, nonprofit organization, or other business, under which agreement such financial institution, nonprofit organization, or other business agrees to lend funds, or make available or contribute other resources to the corporation in accordance with the provisions of Article 8 (commencing with Section 14070) of this chapter.

(*l*) "Board of directors" means the board of directors of the corporation.

(m) "Loan limit" means the maximum aggregate amount that a member may lend to a corporation as determined under the provisions of this chapter.

(n) "Board" means the Small Business Development Board.

(o) "Executive director" means the executive director of the Office of Small Business Development.

SEC. 3. Section 14020 of the Corporations Code is amended to read:

14020. There is in the Business and Transportation Agency in the Department of Economic and Business Development a Small Business Development Board.

SEC. 4. Section 14024 of the Corporations Code is amended to read:

14024. The board shall not allocate any funds to a small business development corporation unless the board determines to its satisfaction:

(a) That there is sufficient interest in the region, including commitments to provide financial support, business consultation and education, and other assistance.

(b) That the corporation will agree to repay adminstrative cost allocations within a reasonable period of time.

(c) That the plan of operation submitted by the corporation

includes:

(1) Substantiation of the ability of the corporation to maintain and increase its loan guarantee fund.

(2) A reasonably complete description of the disadvantaged area or areas to be served.

(3) A description of methods to be used to mobilize community resources within the region to carry out the purposes of this chapter.

(4) An agreement that at least one-half of the corporation's lendable funds and guarantee capacity will be utilized to make or guarantee small business loans. There shall be no discrimination on the basis of race, creed, national origin, sex, age or physical handicap in considering individual applications for loans. To prevent discrimination, small business loans shall be made to persons whose characteristics coincide, to the fullest extent possible consistent with provisions of law, with the characteristics of the economically disadvantaged area or economically disadvantaged areas to be served.

(5) An agreement to require, as a condition to the granting of any loan or guarantee, that the borrower in an employment incentive loan will accept for permanent employment a significant number of disadvantaged persons referred for placement by the Department of Employment Development. There shall be no discrimination on the basis of race, creed, national origin, sex, age or physical handicap by an employment incentive borrower in hiring employees from disadvantaged areas. To prevent discrimination, the characteristics of these employees shall, to the fullest extent possible consistent with provisions of law, coincide with the characteristics of the unemployed in the economically disadvantaged area or economically disadvantaged areas to be served.

(6) An agreement to require, as a condition to the granting of any loan or guarantee, that the borrower in a small business loan will agree to a continuing consulting relationship with the corporation during the existence of the loan or guarantee.

(7) An agreement to coordinate to the maximum extent feasible with existing job development and placement programs.

SEC. 5. Section 14028 is added to the Corporations Code, to read:

14028. To the extent permitted by the resources allocated to the office, the office may, in such manner as the board determines fair and reasonable, provide to small businesses in this state qualifying under any of the programs under the jurisdiction of the office, the following:

(a) Financial assistance in the form of loan guarantees through the California Small Business Development Corporations, equity guarantees.

(b) Management assistance.

(c) Public relations services.

(d) Representation of their interests before Congress, the Legislature, and state and federal agencies.

(e) Planning and research functions.

SEC. 6. Section 14028.1 is added to the Corporations Code, to read:

14028.1. The office may establish a special council on purchasing to encourage major corporations doing business in this state to purchase from, and subcontract to, small and minority businesses in this state.

SEC. 7. Section 14028.2 is added to the Corporations Code, to read:

14028.2. The office may establish and maintain a minority vendor file as a comprehensive listing and information source on small and minority businesses throughout the state for all businesses and industries.

SEC. 8. Section 14028.3 is added to the Corporations Code, to read:

14028.3. The office may establish a central reference program and general counseling service to assist small and minority businesses in their operations, including governmental requirements, such as taxation, accounting, and pollution control and to provide information concerning from what agency more specialized assistance may be obtained.

SEC. 9. Section 14028.4 is added to the Corporations Code, to read:

14028.4. In connection with any loan made, guaranteed or otherwise assisted by the state, the executive director shall require that management and technical assistance be provided to the borrower by the central staff of a California Small Business Development Corporation pursuant to Sections 14084 and 14170.

SEC. 10. Article 3.6 (commencing with Section 14029) is added to Chapter 1 of Part 5 of Division 3 of the Corporations Code, to read:

Article 3.6. Small Business Expansion Program

14029. There is hereby created in the State Treasury the Small Business Expansion Fund.

14029.1. The Small Business Expansion Fund is created solely for the purpose of receiving state money to make guarantees, and restricted investments pursuant to the provisions of this article.

14029.2. All money deposited in the Small Business Expansion Fund is hereby continuously appropriated, without regard to fiscal years, for the purposes of this article.

14029.3. The state shall not be liable or obligated in any way beyond the state money which is allocated in the Small Business Expansion Fund from moneys from the General Fund moneys appropriated for such purposes.

14029.4. The board may establish a program to facilitate the transfer of a small business between a seller and buyer thereof.

Any activities undertaken pursuant to such program shall be exempt from the provisions of the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code).

14029.5. The board may establish a program through which the regional corporations may enter into contracts with any investor to indemnify such investor's investments in any minority enterprise small business investment company or in any corporation formed

pursuant to the provisions of Part 6 (commencing with Section 14200) of Division 3 of the Corporations Code against the risk of loss. Contracts entered into pursuant to this section may guarantee up to 50 percent of the paid-in capital and surplus of any minority enterprise small business investment company, or in any corporation formed pursuant to the provisions of Part 6 (commencing with Section 14200) of Division 3 of the Corporations Code.

14029.6. The board may establish a program through which the regional corporations may enter into contracts with any financial institution to indemnify such institution's investments in such classes of securities as the board may by regulation determine, in consideration for the expansion of the institution's loan activity with small businesses.

"Financial institutions" includes all such institutions licensed or regulated by the state or federal government, or whose accounts are insured by a state or federal agency.

14029.7. The executive director at his discretion, with the approval of the Director of Finance, may request the State Treasurer to invest those funds in the Small Business Expansion Fund and the Small Business Development Loan Guarantee Fund which are not immediately encumbered by administrative or program costs, in securities issued by the Treasury of the United States government. Returns from these investments shall be deposited in the Small Business Expansion Fund and shall be used to support the programs of this part.

14029.8. The board may establish a program through which the regional corporations may assist small businesses in the acquisition and development of agricultural lands with respect to financing, managerial and technical assistance.

SEC. 11. The heading of Article 5 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code is amended to read:

Article 5. The Small Business Development Loan Guarantee Account

SEC. 11.5. Section 14040 of the Corporations Code is amended to read:

14040. There is hereby continued in the State Treasury in the Business Expansion Fund, the Small Business Development Loan Guarantee Account.

SEC. 12. Section 14048 is added to the Corporations Code, to read:

14048. Every corporation formed under this chapter may establish an account within the Small Business Development Corporation Loan Guarantee Fund to receive funds appropriated to the Small Business Expansion Fund in the State Treasury. The board shall determine the allocation of moneys from this fund to the corporations.

SEC. 13. Article 9.5 (commencing with Section 14084) is added to

Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

Article 9.5. California Small Business Development Corporation Central Staff

14084. Every California Small Business Development Corporation shall provide for and maintain a central staff to perform:

(a) All administrative requirements of the corporation including all those functions required of a corporation by the Small Business Development Board.

(b) Management and technical assistance to borrowers who apply for and receive direct or guaranteed loans through this program, rendering directly such assistance to at least 65 percent of the corporation's borrowers, and by contracting with a qualified private association to fulfill remaining assistance needs if necessary.

(c) The preparation of financial statements on all applicants for loans through this program.

14085. Fifty percent of the costs incurred by a corporation in the creation and maintenance of a central staff shall be paid to the corporation from state funds allocated to the California Office of Small Business Development for these purposes, with the remaining costs of the corporation's central staff to be absorbed by the members of the corporation.

SEC. 14. The sum of seven hundred seventy-six thousand two hundred fifty dollars ($776,250) is hereby appropriated from the General Fund to the Small Business Expansion Fund for the purposes of this act as follows:

(a) The sum of six hundred thousand dollars ($600,000) for the purposes set forth in Section 14029.8 of the Corporations Code.

(b) The sum of one hundred seventy-six thousand two hundred fifty dollars ($176,250) for the purposes set forth in Article 9.5 (commencing with Section 14084) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code.

SEC. 15. The amendments made by this act to the heading of Part 5 (commencing with Section 14000) and of Article 5 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 1 of, and to Sections 14002, 14010, 14020, 14024, and 14040, of the Corporations Code shall be operative only until January 1, 1983, and as of such date shall have no force or effect, unless a later statute which is chaptered before January 1, 1983, deletes or extends such date. Article 3.6 (commencing with Section 14029) and Article 9.5 (commencing with Section 14084) of Chapter 1 of Part 5 of Division 3 of, and Sections 14028, 14028.1, 14028.2, 14028.3, 14028.4, and 14048 of the Corporations Code, as added by this act, shall remain in effect only until January 1, 1983, and as of such date are repealed, unless a later statute, which is chaptered before January 1, 1983, deletes or extends such date.

CHAPTER 925

An act to add Section 81840.1 to the Education Code, relating to community college construction.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 81840.1 is added to the Education Code, to read:

81840.1. Community college districts which become eligible under the provisions of Section 81839, and where the district was established on or after July 1, 1973, shall remain eligible beyond the termination date specified in Section 81839 until the district has received a combination of state and district funds in the amount of five hundred dollars ($500) per weekly student contact hours.

The number of weekly student contact hours used for the purpose of this section shall be the number used in computing the relative district ability factor pursuant to Section 81839.

CHAPTER 926

An act to amend Sections 34312, 34315, 41455, 41457, 41500, 41700, 41715, 42063, and 42064 of the Health and Safety Code, relating to housing.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may:

(a) Prepare, carry out, acquire, lease, and operate housing projects.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation of residential structures for persons of low income. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 41300) or Part 5 (commencing with Section 42000) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 41057.

(e) Provide counseling, referral, and advisory services to persons of low income in connection with the purchase, rental, occupancy,

maintenance, or repair of housing.

SEC. 2. Section 34315 of the Health and Safety Code is amended to read:

34315. An authority may:

(a) Lease or rent any dwellings, houses, accomodations, lands, buildings, structures, or facilities embraced in any housing project and establish and revise the rents or charges for them.

(b) Own, hold, and improve real or personal property.

(c) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in property.

(d) Acquire any real property by eminent domain.

(e) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in it.

(f) Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

(g) Lend upon the security of a deed of trust in connection with the sale of real property to persons of low income or the implementation of government housing and rehabilitation financing programs for persons of low income. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 41300) or Part 5 (commencing with Section 42000) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 41057.

(h) Procure insurance or guarantees from the federal government or the California Housing Finance Agency of the payment of all or part of any debts, whether or not incurred by the authority, secured by mortgages on any property included in any of its housing projects.

SEC. 3. Section 41455 of the Health and Safety Code is amended to read:

41455. The agency may invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, construction loans, mortgage loans, obligations secured by construction loans or mortgage loans, and participations therein for financing or refinancing of housing developments.

The agency may also invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, loans for rehabilitation or home improvements not secured by a mortgage but wholly or partially insured by an agency or instrumentality of the United States, or participation in such loans.

Such construction loans, mortgage loans, obligations secured by construction loans or mortgage loans, rehabilitation and home improvement loans, or participations therein may be held or sold by the agency, or the agency may create pools of such loans, obligations, and participations held by the agency and may sell securities backed by such pools.

SEC. 4. Section 41457 of the Health and Safety Code is amended to read:

41457. The agency may insure or guarantee any obligation held

by the agency and secured by a mortgage on a single-unit housing development for the purpose of increasing its acceptability or value for sale or as security for other obligations. The agency may also insure or guarantee any loan, or participation in a loan, for rehabilitation or home improvement which is insured by an agency or instrumentality of the United States and which is held by the agency. Nothing in this section shall, however, be construed as authorizing the creation of a debt or liability of the state within the meaning of Section 1 of Article XVI of the State Constitution.

SEC. 5. Section 41500 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

41500. Not less than 30 percent nor more than 40 percent of the units financed by the agency during each fiscal year for very low-income households shall be designed specifically for occupancy by elderly persons. The agency shall in each fiscal year, finance at least that number of rental units designed for occupancy and accessibility by persons with orthopedic disabilities necessary to make such units equal to the same percentage relationship to the total number of rental units as such persons comprise when compared to the total population of the state. The percentage shall only, however, relate to those persons qualified by income and the percentage relationship shall be verified according to submarket areas within the state.

SEC. 6. Section 41700 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

41700. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 41707, issue its negotiable bonds in such principal amount as the agency shall determine to be necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure such bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of such bonds.

(b) Sale of the bonds of the agency shall be coordinated by the State Treasurer. To obtain a date for the sale of bonds, the agency shall inform the State Treasurer of the amount of the proposed issue. Upon such notification, the State Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the State Treasurer have mutually agreed. The State Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or

powers of the agency or any member, officer, or representative of the agency or the State Treasurer to carry out and perform in every detail each and every covenant, agreement, or contract at any time made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders thereof.

(c) The aggregate principal amount of nonguaranteed bonds which may be issued pursuant to this part shall not exceed three hundred million dollars ($300,000,000), exclusive of indebtedness incurred to refund or renew previously issued bonds of the agency to the extent of the outstanding principal indebtedness of such previously issued bonds, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. Guaranteed taxable bonds, or in lieu thereof and in the discretion of the agency, nonguaranteed tax-exempt bonds in addition to those authorized by the preceding sentence, to be issued by the agency may be authorized in an amount not exceeding one hundred fifty million dollars ($150,000,000), exclusive of indebtedness incurred to refund or renew previously issued bonds of the agency to the extent of the outstanding principal indebtedness of such previously issued bonds, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds.

SEC. 7. Section 41715 of the Health and Safety Code is amended to read:

41715. The Supplementary Bond Security Account is hereby created in the California Housing Finance Fund. Moneys in such account may be transferred into separate, individual accounts in the fund which shall be known as supplementary reserve accounts, but the amount appropriated to the Supplementary Bond Security Account shall be utilized to secure issuances of bonds under this chapter as deemed necessary by the agency and shall be used for no other purpose. Upon issuance of any bonds pursuant to this chapter, the agency may create a supplementary reserve account to secure payment of the principal of, interest, redemption-premium, and sinking-fund payments on such bonds.

When all obligations secured by all supplementary reserve accounts are retired the Supplementary Bond Security Account shall be dissolved and all moneys therein shall be used first for repayment to the General Fund in the State Treasury of the amount advanced to the Supplementary Bond Security Account by the act enacting this division, less any amount previously repaid on account of such advance. Remaining funds shall be paid into the general accounts of the housing finance agency unless otherwise obligated.

When the amount in a bond reserve fund falls below the minimum bond reserve fund requirement for such fund and available revenues of the agency pledged to the prescribed minimum bond reserve fund requirement are insufficient to restore such fund, the agency shall transfer to the bond reserve fund, from the supplementary bond reserve account securing such bonds, the amount necessary to

restore such fund to the minimum bond reserve fund requirement. Moneys in supplementary reserve accounts may be used to directly pay the interest, principal and sinking-fund payments on the bonds as provided by bond resolution. To secure issuances of bonds, the supplementary reserve accounts may also be used to insure mortgages to protect the value of the housing developments or other residential structures serving as real property security, except owner-occupied housing developments, in any manner permitted by bond resolution.

If the issuance of bonds of the state, as provided in Part 4 (commencing with Section 41800) of this division, is approved by the voters, all moneys in the Supplementary Bond Security Account shall, upon replacement by general obligation bond proceeds, be transferred to the general accounts of the housing finance agency. The agency shall then transfer to the General Fund in the State Treasury the remaining amount necessary to repay the Treasury for the appropriation to the Supplementary Bond Security Account.

Notwithstanding other provisions of this part, interest on the ten million dollars ($10,000,000) appropriated for the Supplementary Bond Security Account shall be paid to the General Fund at the end of each fiscal year.

SEC. 8. Section 42063 of the Health and Safety Code is amended to read:

42063. In addition to insurance of loans authorized by Section 42062, the agency may insure the following types of loans in neighborhood preservation areas:

(a) Loans for acquisition of residential structures, provided such structures are in conformance with state and local housing and building standards; and provided, further, that no borrower shall be eligible for insurance of a loan or loans for more than one residential structure with respect to any such area, unless the borrower is a qualified rehabilitator.

(b) Construction and mortgage loans made or assisted pursuant to this division for financing housing developments.

(c) Loans for rehabilitation or home improvements wholly or partially insured or guaranteed by an agency or instrumentality of the United States or participation in such loans.

The agency shall develop and adopt regulations that provide for an equitable sharing of the risk of loss among the agency and all other parties to the loan transaction with respect to loans for acquisition of residential structures insured pursuant to subdivision (a).

SEC. 9. Section 42064 of the Health and Safety Code is amended to read:

42064. Loans insured pursuant to this part shall meet the following requirements:

(a) The loans shall be made for a period acceptable to the agency, not to exceed 40 years or four-fifths of the remaining economic life of the structure as determined by the agency in accordance with its regulations, whichever is less.

(b) The loans shall be subject to maximum loan amounts for each category of loan authorized to be insured under this part, as established by regulations of the agency.

(c) The loan shall be secured by mortgages, or the loan shall be wholly or partially insured or guaranteed by an agency or instrumentality of the United States.

(d) The agency shall establish loan-to-value limitations for each category of loan and may set forth limitations on the further encumbrance of structures and other real property securing loans, but only to the extent necessary to prevent unreasonable impairment of the agency's security. In no case involving refinancing or purchase shall the loan have a principal obligation in an amount exceeding the sum of the estimated cost of rehabilitation, if any, and either the amount required to refinance existing indebtedness secured by the property or, in the case of a sale, the amount of the purchase price and settlement and closing costs incurred in connection with the purchases.

(e) Loans for the rehabilitation of residential structures shall have a principal obligation not exceeding an amount which, when added to any outstanding indebtedness constituting a lien upon the property securing the loan, creates a total outstanding indebtedness which could be reasonably secured by a first mortgage on the property pursuant to subdivision (d), and as set forth by regulations of the agency.

(f) With respect to any loan for the rehabilitation of a residential structure, the agency shall determine that such repair and improvement is economically feasible. With respect to the rehabilitation of a mixed-use residential and commercial structure or of a commercial structure, the agency shall determine that there will be a demand for commercial occupancy of the residential structure after rehabilitation. In making such determination, the level of rent necessitated by repayment of the loan shall be considered.

(g) For the purpose of increasing the efficiency and minimizing the cost of the loan insurance program, the agency may insure or issue commitments to insure loans, upon the certification of an officer of an approved lending institution that the proposed rehabilitation conforms to requirements specified by regulations of the agency regarding economic feasibility and commercial demand.

(h) With respect to any loan for rehabilitation or rehabilitation in combination with refinancing or purchase, the loan agreement shall provide that all funds loaned for repairs and improvements shall be paid after completion or according to a progress payment schedule to the owner and contractor or other provider of goods or services jointly at such times as payment becomes due, and provided the work or portion of the work for which payment is tendered is certified, as provided by regulation of the agency, to be in compliance with contract specifications and applicable state or local housing or building standards. The agency shall approve the contractor or contractors, the contract to provide rehabilitation

construction, and the contract specifications prior to committing any funds of an insured loan for rehabilitation.

(i) The agency shall require that borrowers contract during the term of the loan not to raise residential rentals over an amount which the agency by regulation establishes will yield a fair rate of return and will allow for increases reasonably necessary to provide and continue proper maintenance of the property; except that residential structures with more than one but less than five dwelling units which are to be occupied by the owner shall be regulated as to rentals in a manner consistent with subdivision (h) of Section 41551.

(j) Relocation payments shall be made to persons and families displaced in making a site or a residential structure available for rehabilitation or construction financed by loans insured under this part, and relocation advisory assistance provided to such persons, as specified by Section 41397. Relocation payments shall also be made to owners involuntarily displaced because of inability to afford costs of compliance required pursuant to this part, but any payment pursuant to Section 4623 of Title 42 of the United States Code or Section 7263 of the Government Code shall be limited to the reasonable cost of a replacement dwelling adequate to accommodate the displaced person or family without regard to whether the dwelling is otherwise comparable to the dwelling formerly occupied, less the amount received from sale of the dwelling. Relocation payments may be made from the proceeds of insured loans as authorized by the agency.

(k) The residential structure for which a loan is insured pursuant to this part shall be insured against loss due to fire and other causes, as provided by the regulations of the agency.

(*l*) Such other terms and conditions as the agency, by regulation, determines are necessary to further the purposes of this part

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CHAPTER 927

An act to add Section 41178 to the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

I am reducing the appropriation contained in Section 2 of Assembly Bill No 920 from $2,625,000 to $1,312,500.

The reduced appropriation is sufficient to fund this program for the remainder of the current fiscal year. Funding at the $2 5 million level will be included in next year's budget

With this reduction, I hereby approve Assembly Bill No 920

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 41178 is added to the Health and Safety Code, to read:

41178. (a) The department shall establish a Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families. Under such program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to such housing. No part of a grant made pursuant to this section may be used for project organization or planning.

Such program shall be administered by the Director of Housing and Community Development and such officers and employees of the department as he may designate. It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for year-around occupancy and ownership by agricultural employees, including ownership of the sites upon which such dwellings are located.

(b) The Farmworker Housing Grant Fund is hereby created in the State Treasury. All money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering such grant program.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section.

(4) Require that grantees and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section enter into an agreement with the

department providing for regulation of the disposition of such housing. In order to assure that the housing assisted pursuant to this section remains continuously available to carry out the purposes of this section, such agreement shall, among other things, require prior department approval of any sale or conveyance of housing assisted under this section. In the event that a sale or conveyance of such assisted housing will result in continued use of such housing by agricultural employees, the department may approve such sale or conveyance provided that (i) no profit is realized by the grantee as a result of the sale, or (ii) if a loss cannot be avoided in such a sale, that the net proceeds of the sale be apportioned between the grantee and the department in proportion that the grantee's funds or contributions bears to the state's grant funds in the project at the time of the sale and that the department's share of such excess funds be returned to the department for deposit in the Farmworker Housing Grant Fund.

In the event that the department determines that the assisted housing is no longer suitable for such purposes or that there is no need for such housing, it may approve a sale at a profit, provided (i) that the entire amount of the grant made by the department be returned to it for deposit in the Farmworker Housing Grant Fund, and (ii) that proceeds of such sale in excess of the state's and grantee's funds and contributions be apportioned between the grantee and the department in the proportion that the grantee's funds or contributions bears to the state's grant funds in the project at the time of the sale and that the department's share of such excess funds be returned to the department for deposit in the Farmworker Housing Grant Fund. However, if a loss cannot be avoided in such a sale, the department may approve the sale provided (i) the state has first claim to the net proceeds from the sale up to the amount of its original grant to the project in the event that the sponsor is a nonprofit corporation or (ii) in the event that the sponsor is a local public entity, that the net proceeds of the sale be apportioned between the grantee and the department in the proportion that the grantee's funds or contributions bears to the state's grant funds in the project at the time of the sale and that the department's share of such excess funds be returned to the department for deposit in the Farmworker Housing Grant Fund. For purposes of this paragraph, construction loans or long-term financing made to a grantee by a public or private lender to construct or rehabilitate housing assisted pursuant to this section shall not be considered as part of the grantee's funds or contributions in calculating the grantee's share in the event of the disposition or resale of the assisted housing.

(5) Regulate the terms of occupancy agreements to be used in housing assisted pursuant to this section.

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit which is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 41109, a current report of the Farmworker Housing Grant Program. Such report shall include, but need not be limited to: (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each such source, and (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance.

(g) As used in this section:

(1) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a stock cooperative as defined in Section 11003.2 of the Business and Professions Code.

(2) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code.

(3) "Housing" may include, but need not be limited to, conventionally constructed units, factory-built units constructed in accordance with the provisions of Part 6 (commencing with Section 19960) of Division 13 of this code, and mobilehome units constructed in accordance with the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401 et seq.).

SEC. 2. The sum of two million six hundred twenty-five thousand dollars ($2,625,000) is hereby appropriated from the General Fund for transfer to the Farmworker Housing Grant Fund. Of such moneys, not more than one hundred twenty-five thousand dollars ($125,000) shall be expended to defray the costs incurred by the Department of Housing and Community Development in administering the Farmworker Housing Grant Program.

CHAPTER 928

An act to amend Section 20980.1 of, and to add Sections 7501, 7502, 7503, 7504, and 20019.51 to, and to repeal Section 10505 of, the Government Code, relating to retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977.]

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

SECTION 1. Section 7501 is added to the Government Code, to read:

7501. It is the intent and purpose of the Legislature, in enacting Sections 7502, 7503, and 7504, to safeguard the solvency of all public retirement systems and funds. The Legislature finds and declares that public agencies maintaining retirement systems can benefit from periodic and independent analysis of their financial condition. It is the purpose of those sections to enable the State Controller to perform this service.

SEC. 2. Section 7502 is added to the Government Code, to read:

7502. The State Controller shall review the annual financial report of each state and local public retirement system submitted pursuant to Section 7504 giving particular consideration to the adequacy of funding of each system. The State Controller shall also review the triennial valuation of each public retirement system submitted pursuant to Section 7504 and shall give particular consideration to the assumption concerning the inflation element in salary and wage increases, mortality, service retirement rates, withdrawal rates, disability retirement rates, and rate of return on investments.

The State Controller shall establish an advisory committee which shall include enrolled actuaries, as defined in Section 7504, and state and local public retirement system administrators, to assist in carrying out the duties imposed by this section.

SEC. 3. Section 7503 is added to the Government Code, to read:

7503. All state and local public retirement systems shall prepare an annual report which shall contain the following financial information:

(a) Balance sheet as of the close of the system's fiscal year.

(b) Statement of income and credits to reserves.

(c) Statement of changes in reserves.

(d) Statement of cash receipts and disbursements.

The balance sheet shall show the cost of assets held, distributed among the reserves for employer contributions, employee contributions, and retired members. The balance sheet shall also show the present value of the total existing and future liabilities of the system to be met from future contributions as certified by an

enrolled actuary based on the most recent triennial valuation. The assets of the retirement system shall be stated in accordance with generally accepted accounting principles.

SEC. 4. Section 7504 is added to the Government Code, to read:

7504. (a) All state and local public retirement systems shall, not less than triennially, secure the services of an enrolled actuary. An enrolled actuary means an actuary enrolled under subtitle C of Title III of the Employee Retirement Income Security Act of 1974. The actuary shall perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency which are, in the aggregate, reasonably related to the experience and the actuaries' best estimate of anticipated experience under the system.

(b) All state and local public retirement systems shall secure the services of a qualified public accountant to perform an attest audit of the system's financial statements. A qualified public accountant means:

(1) A person who is licensed to practice as a certified public accountant in this state by the State Board of Accountancy, or

(2) A person who is registered and entitled to practice as a public accountant in this state by the State Board of Accountancy, or

(3) A county auditor in any county subject to the County Employees Retirement Law of 1937.

(c) All state and local public retirement systems shall submit audited financial statements to the State Controller within six months of the close of each fiscal year. The financial statements shall be prepared in accordance with generally accepted accounting principles in the form and manner prescribed by the State Controller. The penalty prescribed in Section 53895 shall be invoked for failure to comply with this section.

(d) The State Controller shall compile and publish a report annually on the financial condition of all state and local public retirement systems containing, but not limited to, the data required in Section 7502.

SEC. 5. Section 10505 of the Government Code is repealed.

SEC. 6. Section 20019.51 is added to the Government Code, to read:

20019.51. Persons employed in positions which are found to come within the definition of local safety member as the result of administrative review by the board or court action and who were previously miscellaneous members may elect to remain local miscellaneous members by filing written notice of their intent with the board no later than 90 days after the date of notice to the member of their right to make such an election. This section shall not apply to persons employed by a county of the fifth class.

SEC. 7. Section 20980.1 of the Government Code is amended to read:

20980.1. Notwithstanding Section 20980, any local safety member in employment on the effective date of an amendment to his employer's contract subjecting the member to Section 21252.01 and

who has attained age 60 and is credited with less than 20 years of service as a local safety member or who will not be credited with 20 years of such service if he continues in employment to age 60 shall, at the option of the contracting agency, not be retired, except on his application, prior to his completion of 20 years of such service after attaining age 60 or his attainment of age 65, whichever first occurs.

This section shall apply to a contracting agency for five years after the date of that agency's adoption of Section 21252.01 and shall thereafter be inapplicable to such agency.

The provisions of this section shall also apply to a county of the fifth class which is a contracting agency, and which has adopted Section 21252.01, for five years after a final court decision including members, who were formerly in the local miscellaneous membership category, within the local safety membership category.

SEC. 8. There is no appropriation from the General Fund pursuant to Section 2231 of the Revenue and Taxation Code because there are no new duties or obligations imposed on local agencies by this act and there are savings to be realized as well as minor costs to be incurred upon its enactment.

SEC. 9. Sections 1, 2, 3, and 4 of this act shall not become operative until January 1, 1978.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the benefits of Section 5 of this act to be applicable to members who have been reclassified by a court as local safety members, this act must take effect immediately.

CHAPTER 929

An act to add Section 405.2 to the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 405.2 is added to the Streets and Highways Code, to read:

405.2. (a) The department shall proceed expeditiously to remove or demolish all structures within the right-of-way of Route 105 that are not lawfully occupied and are a threat to public health and safety, as permitted under the terms of the preliminary injunction issued in Keith v. Volpe, 352 Fed. Supp. 1324.

(b) The department also shall proceed expeditiously to remove or

demolish all structures within that right-of-way that are not lawfully occupied and have been declared a nuisance, have been found hazardous or unsafe by a city or county pursuant to its building and safety ordinance, or have been declared by the legislative body of a city or county to be a threat to public health and safety and shall expeditiously make such motions before the court having jurisdiction in the matter as may be necessary to amend the preliminary injunction in order to authorize such removal and demolition.

(c) The requirements imposed on the department by this section are solely for the purpose of abating a serious threat to the health and safety of persons residing within, or in the vicinity of, the right-of-way of Route 105, and no actions undertaken by the department pursuant to such requirement shall be construed as having any bearing on the eventual construction of a freeway on Route 105 or shall be construed as being preparatory activities for such construction.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that a serious threat to public health and safety may be abated as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 930

An act to amend Section 4552 of, and to add Sections 4555 and 4582 75 to, the Public Resources Code, relating to forestry.

[Approved by Governor September 20, 1977 Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 4552 of the Public Resources Code is amended to read:

4552. The rules and regulations adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of timberlands and shall be used as standards by persons preparing timber harvesting plans. In those instances in which the board intends the director to exercise professional judgment in applying any rule, regulation, or provision of this chapter, the board shall include in its rules standards to guide the actions of the director, and the director shall conform to such standards, consistent with Section 710.

SEC. 2. Section 4555 is added to the Public Resources Code, to read:

4555. In the event that the director determines that a substantial

question concerning the intent of this chapter is not currently provided for by the rules and regulations of the board, and that approval of a timber harvesting plan which has been filed could result in immediate, significant, and long-term harm to the natural resources of the state, the director may withhold decision on a timber harvesting plan, provided that within five days of such action the director shall notify the board of such action. Within 30 days of the receipt of such notice the board shall, after a public hearing, make a determination as to whether or not the intent of this chapter has been provided for in the rules and regulations of the board. Such determination shall be conclusive. If the board finds that the intent of this chapter has not been provided for in such rules and regulations, the board shall act to alter the rules by emergency regulation in accordance with Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code. The director shall act upon the plan within five days of the board's action. Emergency regulations adopted pursuant to this section shall be effective for no more than 120 days. Such regulations may be made permanent if the board acts to adopt or revise its rules and regulations pursuant to procedures established in this article for the adoption of other than emergency regulations.

SEC. 3. Section 4582.75 is added to the Public Resources Code, to read:

4582.75. The rules adopted by the board shall be the only criteria employed by the director when reviewing timber harvesting plans pursuant to Section 4582.7.

CHAPTER 931

An act to amend Sections 33753, 33760, 33762, 33766, 33780, 33790, 33792, 37912, 37917, 37920, 37922, 37922.1, 37935, 37952, and 41338 of, and to add Sections 33751.5, 33775.5, and 37930.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 33751.5 is added to the Health and Safety Code, to read:

33751.5. The Legislature further finds and declares that the development and construction of residences for occupancy by persons of low income, as defined in Section 41056, is properly included within redevelopment plans whether or not such construction is to occur within a redevelopment area, since redevelopment agencies have specific obligations for development of housing whether or not such development is feasible within

specific redevelopment project areas.

SEC. 2. Section 33753 of the Health and Safety Code is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Insured loan" means a construction loan or a mortgage loan insured or guaranteed, in whole or in part, by any instrumentality of the United States or the State of California, or by any person licensed to insure mortgages in this state.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed residences.

(c) "Local codes" means applicable local, state and federal standards for residential construction, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state or any of its political subdivisions or employee of any redevelopment agency shall be eligible to be a participating party under the provisions of this chapter.

(e) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(f) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(g) "Residential construction" means the construction of new residences meeting requirements of local codes and the redevelopment plan.

(h) "Residence" means real property improved with a residential structure, and within a redevelopment project area also includes real property improved with a commercial structure, or a mixed residential and commercial structure which the redevelopment agency determines to be an integral part of a residential neighborhood. "Residence" includes condominium and cooperative

dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(i) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(j) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

SEC. 3. Section 33760 of the Health and Safety Code is amended to read:

33760. Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under the provisions of this chapter and may make insured loans to participating parties through qualified mortgage lenders, or purchase insured loans without premium made by qualified mortgage lenders to participating parties, for financing (1) residential construction within a redevelopment project area or (2) residential construction of residences in which the dwelling units are committed, for the period during which the loan is outstanding, for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

SEC. 4. Section 33762 of the Health and Safety Code is amended to read:

33762. An agency may establish limitations respecting fees, charges, and interest rates to be used by qualified mortgage lenders for financing residential construction pursuant to this chapter and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the agency's revenue bonds, losses due to defaults, changes in loan-servicing charges, or other expenses related to administration of the residential construction financing program. Any change in interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the redevelopment agency after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the agency's bonds, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this chapter. An agency may purchase insured loans made by a qualified mortgage lender without

premium or may itself pay such fees and charges incurred in lending money for the purpose of residential construction and may collect and disburse, or may contract to pay any person, partnership, association, corporation, or public agency for, collection and disbursal of payments of principal, interest, taxes, insurance, and mortgage insurance. An agency may hold deeds of trust or mortgages, including mortgages insured under Title II of the National Housing Act, as security for financing residential construction and may pledge or assign the same as security for repayment of revenue bonds. Such deeds of trust or mortgages may be assigned to, and held on behalf of the agency by, any bank or trust company appointed to act as trustee or fiscal agent by the agency in any indenture or resolution providing for issuance of bonds pursuant to this chapter. An agency may establish the terms and conditions of financing, which shall be consistent with the provisions of any applicable federal or state law under which the financing is to be insured.

SEC. 4.5. Section 33766 of the Health and Safety Code is amended to read:

33766. Revenues and the proceeds of mortgage insurance or guarantee claims shall be the sole source of funds pledged by an agency for repayment of its revenue bonds. Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt or liability of the agency or the state for which is pledged the faith and credit of the agency or the state but shall be payable solely from revenues and the proceeds of mortgage insurance or guarantee claims.

SEC. 5. Section 33775.5 is added to the Health and Safety Code, to read:

33775.5. In determining the amount of bonds to be issued, the agency may include all costs of the issuance of such revenue bonds, bond reserve funds, and bond interest estimated to accrue for a period not exceeding 12 months from the date of issuance of the bonds.

SEC. 6. Section 33780 of the Health and Safety Code is amended to read:

33780. In the discretion of the agency, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. Such a trust agreement or the resolution providing for the issuance of revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the construction of which is to be financed out of the proceeds of such revenue bonds. Such trust agreement or the resolution providing for the issuance of bonds may provide for the assignment to such corporate trustee or trustees of insured loans, to be held by such trustee or trustees on behalf of the agency for the

benefit of the bondholders. Such trust agreement or resolution providing for the issuance of revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the agency authorizing the issuance of the revenue bonds. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of revenue bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the agency. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of residential construction.

SEC. 7. Section 33790 of the Health and Safety Code is amended to read:

33790. An agency may not finance insured loans which have not been authorized by prior written agreement between the agency and the participating party. All agreements for such loans shall provide that the architectural and engineering design of the residential construction shall be subject to such standards as may be established by the agency and that the work of such residential construction shall be subject to such supervision as the agency deems necessary.

SEC. 8. Section 33792 of the Health and Safety Code is amended to read:

33792. All moneys received pursuant to the provisions of this chapter, whether revenues or proceeds from the sale of revenue bonds or proceeds of mortgage insurance or guarantee claims, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this chapter, subject to the terms of the resolution authorizing the revenue bonds.

SEC. 9. Section 37912 of the Health and Safety Code is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (i), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to

provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the hearing by the legislative body considering selection of the area for designation.

(2) Consultation with an elected or appointed citizen advisory board, composed of representatives of both owners of property in, and residents of, a proposed residential rehabilitation area, in developing a plan for public improvements and the rules and regulations for implementation of the proposed residential rehabilitation program.

(3) Dissemination, at least seven days prior to the original hearing, by mailing to property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of such area by a manner determined appropriate by the local agency, of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

"Citizen participation" also includes any other means of citizen involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value for the purpose of residential rehabilitation and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation or the purchase of structures rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200) of this division.

(f) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part

(g) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing authorized by this part. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this part.

(h) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(1) Defective design and character of physical construction.

(2) Faulty interior arrangement and exterior spacing.

(3) Inadequate provision for ventilation, lighting, and sanitation.

(4) Obsolescence, deterioration, and dilapidation.

(i) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(j) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1, including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(*l*) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

SEC. 10. Section 37917 of the Health and Safety Code is amended to read:

37917. The local agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the local agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program. Any change in interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the governing body of the local agency after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the local agency's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this part.

The local agency may purchase loans made to participating parties by qualified mortgage lenders without premium, if the loans are insured or guaranteed, in whole or in part, by an instrumentality of the United States or of the State of California and are of the character and on the terms previously established by the local agency for the residential rehabilitation program. The local agency may fix fees for servicing of such loans by qualified mortgage lenders, or may itself undertake collection, or may contract to pay any person, partnership, association, corporation, or public agency for such collection and disbursal.

The local agency may hold deeds of trust or mortgages, including mortgages insured under Title II of the National Housing Act, as security for financing residential rehabilitation and may pledge or assign the same as security for repayment of bonds issued pursuant to this part. The local agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this part.

Such deeds of trust or mortgages may be assigned to, and held on behalf of the local agency by, any bank or trust company appointed to act as trustee or fiscal agent by the local agency in any indenture or resolution providing for issuance of bonds pursuant to this part.

The full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted where required by the federal or state insurer or in cases of hardship, which shall be defined, and procedures established for the determination of their existence, in the guidelines established pursuant to subdivision (c) of Section 37922.

SEC. 11. Section 37920 of the Health and Safety Code is amended to read:

37920. Revenues and the proceeds of mortgage insurance or guarantee claims, if any, shall be the sole source of funds pledged by the local agency for repayment of its bonds. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the local agency or a pledge of the faith and credit of the local agency but shall be payable solely from revenues and the proceeds of mortgage insurance or guarantee claims, if any. The issuance of bonds shall not directly, indirectly, or contingently obligate the legislative body to levy or pledge any form of taxation or to make any appropriation for their payment.

SEC. 12. Section 37922 of the Health and Safety Code is amended to read:

37922. Prior to the issuance of any bonds or bond anticipation notes of the local agency for residential rehabilitation, the local agency shall by ordinance or resolution adopt a comprehensive residential rehabilitation financing program which shall include, but is not limited to, the following items:

(a) Criteria for selection of residential rehabilitation areas by the local agency which shall include findings by the local agency that:

(1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(2) Financial assistance from the local agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(3) Financing of residential rehabilitation in the area is economically feasible.

However, these findings are not required when the residential rehabilitation area is a redevelopment project area that the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) apply to.

(b) Procedures for selection of residential rehabilitation areas by the local agency which shall include:

(1) Provisions for citizen participation in selection of residential rehabilitation areas.

(2) Provisions for a public hearing by the governing body of the local agency prior to selection of any particular residential rehabilitation area by the local agency.

(c) A commitment that, subject to budgeting and fiscal limitations of the local agency, rehabilitation standards will be enforced in 95 percent of the residences in each residential rehabilitation area.

(d) Guidelines for financing residential rehabilitation which shall be subject to the following limitations:

(1) Outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the local agency may authorize loans of up to 95 percent of the anticipated after-rehabilitation value of the property if such loans are made for the purpose of rehabilitating the property for residential purposes,

there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding either 98 or 100 percent of the estimated after-rehabilitation value or of its total development cost, according to the standards for nonprofit housing sponsors set forth in Section 41338, if the dwelling units within the residence rehabilitated with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(3) The maximum amount loaned for rehabilitation for each dwelling unit and for each commercial unit which is, or is part of, a "residence" within the meaning of that term as defined in this part, shall be thirty-five thousand dollars ($35,000).

(4) No more than 20 percent of any loan for residential rehabilitation shall be used for residential rehabilitation which is not required under the local agency's rehabilitation standards except that in the case of owner-occupied one- to four-dwelling-unit properties, up to 40 percent of the loan for residential rehabilitation may be used for residential rehabilitation not required under the local agency's rehabilitation standards.

(5) Loans shall not be made for the purpose of refinancing the outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation, unless the cost, including in such costs any amounts previously expended for residential rehabilitation of that property by a participating party, within a residential rehabilitation area or a redevelopment project area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.

(e) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the local agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.

SEC. 13. Section 37922.1 of the Health and Safety Code is amended to read:

37922.1. (a) A comprehensive residential rehabilitation financing

program may authorize residential rehabilitation outside residential rehabilitation areas of residences which meet the following qualifications:

(1) The residence is located in an area determined by the legislative body to be a stable and viable residential neighborhood.

(2) Rehabilitation of the residence is determined by the legislative body to be economically feasible.

(3) Dwelling units rehabilitated within the residence with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(b) Guidelines for financing residential rehabilitation of residences specified in subdivision (a) shall be included in the comprehensive residential rehabilitation financing program if financing of such rehabilitation is authorized pursuant to this section. Such guidelines shall be subject to the limitations prescribed by subdivision (d) of Section 37922. The maximum repayment period for residential rehabilitation loans for residences described in subdivision (a) shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(c) With respect to rehabilitation of residences specified in subdivision (a), the comprehensive residential rehabilitation financing program shall provide for notice to affected owners and tenants of the proposed rehabilitation and for an opportunity for participation by them in the designation of dwelling units to be rehabilitated and in the planning of the proposed rehabilitation.

SEC. 14. Section 37930.5 is added to the Health and Safety Code, to read:

37930.5. In determining the amount of bonds to be issued, the local agency may include all costs of the issuance of such revenue bonds, bond reserve funds, and bond interest estimated to accrue for a period not exceeding 12 months from the date of the bonds.

SEC. 15. Section 37935 of the Health and Safety Code is amended to read:

37935. In the discretion of the local agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the local agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the rehabilitation of which is to be financed out of the proceeds of such bonds. Such trust agreement or the resolution providing for the issuance of the bonds may provide for the assignment to such corporate trustee or trustees of loans, deeds of trust, or mortgages, to be held by such trustee or trustees on behalf of the local agency for the benefit of the bondholders. Such trust agreement or

resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the local agency authorizing the issuance of bonds pursuant to Section 37932. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the local agency. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of residential rehabilitation.

SEC. 16. Section 37952 of the Health and Safety Code is amended to read:

37952. All moneys received pursuant to the provisions of this part, whether proceeds from the sale of bonds or revenues or proceeds of mortgage insurance or guarantee claims, if any, shall be deemed to be trust funds to be held and applied solely as provided in this part. Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this part, subject to the terms of the resolution authorizing the bonds.

SEC. 17. Section 41338 of the Health and Safety Code is amended to read:

41338. Loans made pursuant to this part to housing sponsors, other than nonprofit housing sponsors, of rental housing developments shall not exceed 95 percent of the development costs of the housing development for which the loan is made. Loans made pursuant to this part to local public entities and nonprofit housing sponsors shall in no event exceed 100 percent of development costs and shall not exceed 98 percent of development costs unless (1) the local public entity or nonprofit housing sponsor has or will participate in the housing development with another local public entity or nonprofit housing sponsor which has a significant past record of successful residential development and not more than 30 percent of the units in such housing development will be occupied by very low income family households, or (2) the housing development will be designed for occupancy by elderly or handicapped households. In evaluating the significance of the past record of a nonprofit housing sponsor for purposes of this section, the agency shall take into consideration exclusionary or discriminatory lending policies or practices of the mortgage finance industry or government mortgage programs which have limited the record of past housing production or

development by the nonprofit housing sponsor.

CHAPTER 932

An act to amend Section 14040.6 of the Government Code, relating to transportation.

[Approved by Governor September 20, 1977. Filed with Secretary of State September 20, 1977]

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

SECTION 1. Section 14040.6 of the Government Code is amended to read:

14040.6. The California Transportation Plan shall not be adopted by the board until the Legislature has received, and approved or modified, the recommendations specified in subdivision (a) of Section 14042 by an act containing the approved or modified recommendations, which act shall constitute a legislative declaration of statewide transportation goals, objectives, and policies. The board shall adopt the California Transportation Plan only upon a finding that the plan is compatible with the declaration.

The plan shall not become effective until the Legislature declares by statute that the plan is consistent with the Legislature's declaration of statewide transportation goals, objectives, and policies.

SEC. 2. Section 1 of this act shall not become effective if Assembly Bill No. 402 of the 1977–78 Regular Session of the Legislature is enacted to add Part 5.3 (commencing with Section 14500) to Division 3 of Title 2 of the Government Code to create a California Transportation Commission.

CHAPTER 933

An act to add Sections 20930.5 and 20938 to the Government Code, relating to the Public Employees' Retirement System.

[Became law without Governor's Signature September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 20930.5 is added to the Government Code, to read:

20930.5. "Public service," with respect to a local member electing prior to December 31, 1978, to receive credit therefor, also means any time prior to such election during which such member served as an uncompensated elected public official. Any member electing

to receive credit for such public service shall contribute an amount equal to (1) the contributions that the member would have been required to make had he been a member, which shall be based upon the compensation currently earned by a person in the same position as that in which the member previously served; (2) the contribution that would have been made by his employer in respect to him had he been a member, assuming that the employer rate of contribution in effect at the time of election had been in effect during such time; and (3) the amount of interest that would have accrued to the member and employer contributions if they had been deposited at the beginning date of the member's first subsequent period of service in membership until the date of completion of payments at the interest rate in effect on the date of election.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 2. Section 20938 is added to the Government Code, to read:

20938. "Public service" also means time during which a local member was employed by a public agency prior to the date of that agency's contract with the system if:

(a) The member left his contributions to that agency's local retirement system on deposit when the member terminated service with that agency; and

(b) The member elects, prior to December 31, 1978, to pay all of the contributions for current and prior service which the member and the public agency for which the member performed service prior to the contract with the system would have made to the system had he been in membership for a period equal to such public service and assuming that the contribution rates payable, by the member at the time of his first entry into membership, and the rates payable by his employer at the time of election, and his compensation at the beginning of his first period of service in membership with the system had been in effect for such period of public service, plus an amount equal to the interest which would have accrued to such contributions if they had been on deposit with the system from the beginning of the member's first period of service in membership to date of election, and assuming that the annual interest rate in effect on the date of election had been in effect throughout such period; and

(c) The member's current employer agrees to pay all costs for such service credit, which are not paid by the member, by having all of such service credit charged to its account; and

(d) The local retirement system holding the member's contributions shall transfer such contributions to this system to be credited first against member contributions due under subdivision

(b), and then against the employer's costs under subdivision (c).

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section becomes effective, by express provision in such contract making the contracting agency subject to the provisions of this section.

CHAPTER 934

An act to amend Sections 43.7 and 43.8 of the Civil Code, relating to liability.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 43.7 of the Civil Code, as amended by Chapter 241 of the Statutes of 1977, is amended to read:

43.7. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a medical staff of a licensed hospital (provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical or dental services rendered by physicians and surgeons, or dentists, which committee is composed chiefly of physicians and surgeons, or dentists, for any act or proceeding undertaken or performed in reviewing the quality of medical or dental services rendered by physicians and surgeons, or dentists, if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he acts, and acts in reasonable belief that the action taken by him is warranted by the facts known to him after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, accounting, optometric, podiatric, pharmaceutic, chiropractic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

There shall be no monetary liability on the part of, and no cause

of action for damages shall arise against, any physician and surgeon who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of professional liability insurance, if such evaluating physician or surgeon acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he acts, and acts in reasonable belief that the action taken by him is warranted by the facts known to him after such reasonable effort to obtain such facts.

This section shall not be construed to confer immunity from liability on any professional society or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital or professional society, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 2. Section 43.8 of the Civil Code is amended to read:

43.8. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, professional society, medical or dental school, professional licensing board or division, committee or panel of such licensing board, peer review committee, or underwriting committee described in Section 43.7 when such communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing arts and does not represent as true any matter not reasonably believed to be true. The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege which may be afforded by Section 47.

CHAPTER 935

An act to add Section 34.9 to the Civil Code, relating to minors.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 34.9 is added to the Civil Code, to read:

34.9. (a) Notwithstanding any other provision of law, a minor who is alleged to have been sexually assaulted may give consent to the furnishing of hospital, medical, and surgical care related to the diagnosis and treatment of such condition, and the collection of medical evidence with regard thereto. Such consent shall not be subject to disaffirmance because of minority. The consent of the

parent, parents, or legal guardian of such minor shall not be necessary to authorize such diagnosis, treatment, or collection of evidence.

(b) The professional person rendering medical treatment shall attempt to contact the parent, parents, or legal guardian of the minor and shall note in the minor's treatment record the date and time he or she attempted to contact the parent, parents, or legal guardian and whether such attempt was successful or unsuccessful. The provisions of this subdivision shall not be applicable where the professional person reasonably believes that the parent, parents, or guardian of the minor committed the sexual assault on the minor.

(c) As used in this section, "sexually assaulted" includes, but is not limited to, conduct coming within the provisions of Section 261, 286, or 288a of the Penal Code.

CHAPTER 936

An act to amend Sections 41020 and 84040 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, and to add Sections 41020.5, 41020.6, 84040.5, and 84040.6 to, and to add and repeal Sections 41020.7 and 84040.7 of, the Education Code, relating to school and community college audits.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 41020 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

41020. It is the intent of the Legislature to encourage sound fiscal management practices among school districts for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the district, county, and state level.

Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each district shall either provide for an audit of the books and accounts of the district, including an audit of school district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a school district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds

under the control or jurisdiction of the district; funds of regional occupational centers and programs maintained by the county superintendent of schools, a school district, or pursuant to a joint powers agreement.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy.

The auditor's report shall include (1) a statement that the audit was conducted pursuant to standards and procedures developed in accordance with Section 41020.5 and (2) a summary of audit exceptions and management improvement suggestions.

Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the Department of Education, and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by auditor and approval by the county superintendent of schools. The Superintendent of Public Instruction shall make any adjustments necessary in future apportionments of all state funds, to correct any discrepancies revealed by such audit reports.

Each county superintendent of schools shall be responsible for the correction of any discrepancies revealed by audit reports issued pursuant to this section which do not affect state funds and are not corrected by the Superintendent of Public Instruction when the discrepancies affect any revenue and expenditures under his control or the control of any school district within his jurisdiction. The county superintendent of schools shall adjust the future local property tax requirements to correct audit discrepancies relating to school district tax rates and tax revenues.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance shall make arrangements for the audit and the cost of such audit shall be paid from school district funds or the county school service fund as the case may be.

Audits of regional occupational centers and programs are subject to the provisions of this section.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any school district.

SEC. 2. Section 41020.5 is added to the Education Code, to read:

41020.5. The Department of Finance, in cooperation with the

Auditor General and the Department of Education, shall prescribe the statements and other information to be included in the audit reports filed with the state and shall develop audit procedures for carrying out the purposes of this section. The Department of Finance may make audits, surveys, and reports which, in the judgment of the department will serve the best interest of the state.

A review of existing audit procedures, statements, and other information required to be included in the audit reports shall be commenced on January 1, 1978, by the Department of Finance, in cooperation with the Auditor General and the Department of Education. Updated standards shall be completed by August 1, 1978, and shall periodically be updated no less than every two years thereafter.

SEC. 3. Section 41020.6 is added to the Education Code, to read:

41020.6. On June 30, 1979, and each year thereafter, the Department of Education shall report to the Joint Legislative Audit Committee on (1) the number and nature of audit exceptions and estimated amount of funds involved in such exceptions, (2) a list of districts or county superintendents which failed to file their audits pursuant to Section 41020, and (3) the actions taken by the department to eliminate audit exceptions and rectify fiscal discrepancies.

SEC. 4. Section 41020.7 is added to the Education Code, to read:

41020.7. On July 30, 1979, the Auditor General shall report to the Legislature on (1) action taken to update audit procedures pursuant to Section 41020.5, (2) a sample review of individual district audits to determine compliance with audit procedures, (3) a review of actions taken by the Department of Education pursuant to Section 41020.6, and (4) recommendations for future action to assure increased utility of the audits.

This section shall remain in effect only until July 30, 1979, and as of that date is repealed.

SEC. 5. Section 84040 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

84040. It is the intent of the Legislature to encourage sound fiscal management practices among community college districts for the most efficient and effective use of public funds for the education of community college students in California by strengthening fiscal accountability at the district, county, and state level.

Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each community college district shall either provide for an audit of the books and accounts of the district, including an audit of community college district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a community college district has not provided for an audit of the books and accounts of the district by

April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy.

The auditor's report shall include (1) a statement that the audit was conducted pursuant to standards and procedures developed in accordance with Section 84040.5 and (2) a summary of audit exceptions and management improvement suggestions.

Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the board of governors and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The board of governors shall make any adjustments necessary in future apportionments of all state funds, to correct any discrepancies revealed by such audit reports.

Each county superintendent of schools shall be responsible for the correction of any discrepancies revealed by audit reports issued pursuant to this section which do not affect state revenue and expenditures and are not corrected by the board of governors when the discrepancies affect any funds under his control or the control of any district within his jurisdiction.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance may make arrangements for the audit and the cost of such audit shall be paid from district funds or the county school service fund as the case may be.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any community college district.

SEC. 6. Section 84040.5 is added to the Education Code, to read:

84040.5. The Department of Finance, in cooperation with the Auditor General and the board of governors, shall prescribe the statements and other information to be included in the audit reports filed with the state and shall develop audit procedures for carrying out the purposes of this section. The Department of Finance may

make audits, surveys, and reports which, in the judgment of the department will serve the best interest of the state.

A review of existing audit procedures, statements, and other information required to be included in the audit reports shall be commenced on January 1, 1978, by the Department of Finance, in cooperation with the Auditor General and the board of governors. Updated standards shall be completed by August 1, 1978, and shall periodically be updated no less than every two years thereafter.

SEC. 7. Section 84040.6 is added to the Education Code, to read:

84040.6. On June 30, 1979, and each year thereafter, the office of the chancellor shall report to the Joint Legislative Audit Committee on (1) the number and nature of audit exceptions and estimated amount of funds involved in such exceptions, (2) a list of districts or county superintendents which failed to file their audits pursuant to Section 84040, and (3) the actions taken by the department to eliminate audit exceptions and rectify fiscal discrepancies.

SEC. 8. Section 84040.7 is added to the Education Code, to read:

84040.7. On July 30, 1979, the Auditor General shall report to the Legislature on (1) action taken to update audit procedures pursuant to Section 84040.5, (2) a sample review of individual district audits to determine compliance with audit procedures, (3) a review of actions taken by the office of the chancellor pursuant to Section 84040.6, and (4) recommendations for future action to assure increased utility of the audits.

This section shall remain in effect only until July 30, 1979, and as of that date is repealed.

CHAPTER 937

An act to add Section 9358 to, and to repeal Sections 9358, 9358.1, and 9358.5 of, the Government Code, relating to the Legislators' Retirement System, and making an appropriation therefor.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 9358 of the Government Code is repealed.

SEC. 2. Section 9358 is added to the Government Code, to read:

9358. The state shall make contributions on account of liability for benefits under this chapter in a sum equal to 18.81 percent of the compensation paid members of this system.

From the General Fund in the State Treasury there is appropriated monthly to the Legislators' Retirement Fund the state's contribution pursuant to this section.

SEC. 3. Section 9358.1 of the Government Code is repealed.

SEC. 4. Section 9358.5 of the Government Code is repealed.

CHAPTER 938

An act to amend Section 1198.5 of the Labor Code, relating to employee records.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 1198.5 of the Labor Code is amended to read:

1198.5. Every employer shall at reasonable times, and at reasonable intervals as determined by the Labor Commissioner, upon the request of an employee, permit that employee to inspect such personnel files which are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

Each employer subject to this section shall keep a copy of each employee's personnel file at the place the employee reports to work, or shall make such file available at such place within a reasonable period of time after a request therefor by the employee.

This section does not apply to the records of an employee relating to the investigation of a possible criminal offense. It shall not apply to letters of reference.

CHAPTER 939

An act to add Article 6.5 (commencing with Section 18300) to Chapter 3 of Division 7 of the Financial Code, relating to loans.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Article 6.5 (commencing with Section 18300) is added to Chapter 3 of Division 7 of the Financial Code, to read:

Article 6.5. Open-End Loans

18300. (a) As used in this article, "open-end loan" means a loan or loans made by an industrial loan company pursuant to a loan agreement which expressly states that it is made pursuant to this section and pursuant to which:

(1) The industrial loan company may permit the borrower to obtain advances of money from the industrial loan company from time to time or the industrial loan company may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time or in monthly installments.

(b) Subject to the written approval of the commissioner of the industrial loan company's plan of business for making open-end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open-end loans under Section 18347, an industrial loan company may make open-end loans pursuant to this section and may contract for and receive thereon charges as set forth in Sections 18212 and 18213. Such charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open-end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open-end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to the balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of that cycle is the same date each month or does not vary by more than four days from the regular date.

(c) No industrial loan company shall enter into any agreement for an open-end loan that provides for a minimum payment that would result in the full repayment of principal over more than the maximum periods set forth below opposite the respective size of loans.

Principal amount of loan	Maximum period
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

The minimum payment shall be determined by the amount of the initial loan advance and shall continue at that amount until a subsequent loan advance is made, at which time the minimum payment shall be determined by the amount of the unpaid balance of the loan after the advance and including the advance. Minimum payments after each advance shall be determined in the same manner.

(d) On open-end loans the industrial loan company may contract for and receive the fees, costs and expenses permitted on other loans, including those permitted by Sections 18215, 18218, 18290, 18294, and 18412, subject to all of the conditions and restrictions set forth in those sections with the following variations:

(1) The charge for credit life insurance shall be on a monthly basis. No credit life insurance written in connection with an open-end loan shall be cancelled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of such payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(e) An industrial loan company shall not make an open-end loan in excess of ten thousand dollars ($10,000) principal amount.

(f) The loan contract shall provide for payment of minimum payments complying with subdivision (c). All loans made pursuant to this section shall be repayable by equal or substantially equal monthly payments during the term of the loan.

(g) In lieu of applying the provisions of Section 18290, the provisions contained herein shall apply to open-end loans.

An industrial loan company may provide insurance on the life of one or more borrowers with the borrower's consent. The form of the insurance shall be approved by the Commissioner of Insurance and shall be in an amount not in excess of the indebtedness. The amount charged to the borrower for such insurance shall not exceed the amount provided in paragraph (1) or (2) following, whichever is less:

(1) The premium rate filed with the Commissioner of Insurance for the coverage provided pursuant to Article 5.9 (commencing with Section 799.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by him.

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is fixed by the Commissioner of Insurance by a valid and effective regulation hereafter adopted.

Notwithstanding Section 18291, any such life insurance shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later.

(h) The open-end loan agreement shall contain the name and address of the industrial loan company and shall disclose the nature of the security taken, if any, the method of determining the minimum payments which will be required to repay the initial advance, and any subsequent advances on the loan, and the agreed rate of charge.

(i) At the time the open-end loan agreement is made the

industrial loan company shall obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan. If such statement discloses a broker or other person has participated, the company shall obtain a full statement of all sums paid or payable to the broker or other person. The open-end loan agreement and the statement required by this subdivision shall be kept for a period of two years after the date the loan has been paid in full, or has matured according to its terms, or has been charged off.

(j) Except in the case of an account which the industrial loan company deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the company shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charge determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System under the Federal Consumer Credit Protection Act, the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(k) An industrial loan company shall not take any instrument in connection with an open-end loan in which blanks are left to be filled in after execution.

(*l*) Subdivision (a) of Section 18205, and Sections 18206, 18214, 18222, 18231, 18232, 18235, 18245, 18246, 18247, 18248, 18249, 18250, 18251, and 18252 shall not apply to open-end loans.

(m) An industrial loan company shall not make an open-end loan secured by real property in whole or in part.

(n) An industrial loan company shall not charge for, offer or provide credit disability insurance in connection with an open-end loan.

(o) This section shall not apply to loans other than open-end loans.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government

entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 940

An act to amend Sections 434.5, 17081, 40024, and 40031 of, and to repeal Section 9157 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1977, and March 1 of each year thereafter, up to and including March 1, 1979, timberland shall be valued according to the following schedule:

Redwood Region		Pine-Mixed Conifer Region	
Site I	$80	Site I	$60
Site II	$60	Site II	$50
Site III	$50	Site III	$40
Site IV	$30	Site IV	$30
Site V (and inoperable)	$20	Site V (and inoperable)	$20

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, such timberland parcel or portion thereof shall be valued as if it is Site V.

The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article XIII of the Constitution.

(b) On or before January 1, 1980, and every third year thereafter, the board after consultation with the timber advisory committee and in compliance with procedures set forth for adoption of rules under the Administrative Procedure Act, shall adopt schedules reestablishing the value of each grade of timberland graded pursuant to Section 434 as if it were bare of forest growth, and recognizing that the restricted use of the land is for growing and harvesting timber and compatible uses. The board shall certify such values to county assessors by January 10 of each year. Such schedule shall remain in effect until subsequent revision pursuant to the provisions of this subdivision.

(c) Commencing January 1, 1977, the board shall collect such data as may be necessary to accurately value timberland pursuant to subdivision (b).

(d) In promulgating regulations pursuant to subdivision (b) the board shall determine the value of such timberland subject to the following:

(1) The board shall base the value of such land upon the existence of a 10-year enforceable restriction using commonly accepted systems of valuation.

(2) When the board is valuing timberland property within a timberland preserve zone by comparison with sales of other timberland properties in order to be considered comparable, the properties sold shall be at least 160 acres in size and shall be similarly restricted under a timberland preserve zone. Size and any discount for size and amenities shall not be factors in determining the value of land zoned as timberland preserve which is valued by a method employing the use of comparable sales.

(e) For purposes of this section, the value of each acre of timberland within each site class, within a timberland preserve zone, shall be presumed no greater than the value derived pursuant to subdivision (f).

(f) The board shall:

(1) Prepare, or cause to be prepared, timberland site capability tables which shall prescribe by site classification the potential annual yield of wood by species or mixture of species per acre.

(2) Multiply the potential annual yield by 10 percent.

(3) Multiply the result of paragraph (2) by an immediate harvest value, averaged for the previous 20 quarters, that is appropriate for the geographical area wherein such timberland values shall be applied.

(4) Divide the result of paragraph (3) by a capitalization rate of 10 percent expressed as a decimal.

Pursuant to paragraph (2) of this subdivision, the Legislature declares that 10 percent is the average percent of income from potential annual yield of wood that can be attributed to timberland as a productive component contributing to such income, and the Legislature finds that it is in the public interest that values derived from analysis of sales of timberland restricted under timberland preserve zones shall not exceed this percentage.

(g) For the purposes of this section, the value of each acre of timberland within a timberland preserve zone shall be presumed to be no less than twenty dollars ($20) per acre.

SEC. 2. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1977, and March 1 of each year thereafter, up to and including March 1, 1979, timberland shall be valued according to the following schedule:

Redwood Region		Pine-Mixed Conifer Region	
Site I	$80	Site I	$60
Site II	$60	Site II	$50

Site III	$50	Site III	$40
Site IV	$30	Site IV	$30
Site V (and inoperable)	$20	Site V (and inoperable)	$20

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, such timberland parcel or portion thereof shall be valued as if it is Site V.

The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of Section subdivision (j) of Section 3 of Article 13 of the Constitution.

(b) On or before January 1, 1980, and every third year thereafter, the board after consultation with the timber advisory committee and in compliance with procedures set forth for adoption of rules under the Administrative Procedure Act, shall adopt schedules reestablishing the value of each grade of timberland graded pursuant to Section 434 as if it were bare of forest growth, and recognizing that the restricted use of the land is for growing and harvesting timber and compatible uses. The board shall certify such values to county assessors by January 10 of each year. Such schedule shall remain in effect until subsequent revision pursuant to the provisions of this subdivision.

(c) Commencing January 1, 1977, the board shall collect such data as may be necessary to accurately value timberland pursuant to subdivision (b).

(d) In promulgating regulations pursuant to subdivision (b) the board shall determine the value of such timberland subject to the following:

(1) The board shall base the value of such land upon the existence of a 10-year enforceable restriction using commonly accepted systems of valuation.

(2) When the board is valuing timberland property within a timberland preserve zone by comparison with sales of other timberland properties in order to be considered comparable, the properties sold shall be at least 160 acres in size and shall be similarly restricted under a timberland preserve zone. Size and any discount for size and amenities shall not be factors in determining the value of land zoned as timberland preserve which is valued by a method employing the use of comparable sales.

(e) For purposes of this section, the value of each acre of timberland within each site class, within a timberland preserve zone, shall be presumed no greater than the value derived pursuant to subdivision (f).

(f) The board shall:

(1) Prepare, or cause to be prepared, timberland site capability tables which shall prescribe by site classification the potential annual yield of wood by species of mixture of species per acre.

(2) Multiply the potential annual yield by 10 percent.

(3) Multiply the result of paragraph (2) by an immediate harvest value, averaged for the previous 20 quarters, that is appropriate for the geographical area wherein such timberland values shall be applied.

(4) Divide the result of paragraph (3) by a capitalization rate of 10 percent expressed as a decimal.

Pursuant to paragraph (2) of this subdivision, the Legislature declares that 10 percent is the average percent of income from potential annual yield of wood that can be attributed to timberland as a productive component contributing to such income, and the Legislature finds that it is in the public interest that values derived from analysis of sales of timberland restricted under timberland preserve zones shall not exceed this percentage.

(g) For the purposes of this section, the value of each acre of timberland within a timberland preserve zone shall be presumed to be no less than twenty dollars ($20) per acre.

SEC. 3. Section 9157 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 17081 of the Revenue and Taxation Code is amended to read:

17081. (a) If under a decree of dissolution or of separate maintenance, one spouse is to make periodic payments to the other spouse, the gross income of the spouse receiving such payment shall include such payments (whether or not made at regular intervals) received after such decree in discharge of (or attributable to property transferred, in trust or otherwise, in discharge of) a legal obligation which, because of the marital or family relationship, is imposed on or incurred by the other spouse under the decree or under a written instrument incident to such divorce or separation.

(b) If the spouses are separated, and there is a written separation agreement executed after August 16, 1954, the gross income of the spouse receiving payment under the decree shall include periodic payments (whether or not made at regular intervals) received after such agreement is executed which are made under such agreement and because of the marital or family relationship (or which are attributable to property transferred, in trust or otherwise, under such agreement and because of such relationship). This subdivision shall not apply if the husband and wife make a single return jointly.

(c) If a married person is separated from his or her spouse, periodic payments (whether or not made at regular intervals) received by one spouse from the other spouse under a decree entered after March 1, 1954, requiring such spouse to make the payments for his or her support or maintenance shall be included in gross income. This subdivision shall not apply if the husband and wife make a single return jointly.

SEC. 5. Section 40024 of the Revenue and Taxation Code is amended to read:

40024. Notwithstanding any other provision of law to the contrary, persons subject to the jurisdiction of the Public Utilities Commission

need not obtain any authorization from the commission to comply with the provisions of this part.

SEC. 6. Section 40031 of the Revenue and Taxation Code is amended to read:

40031. Following approval of the Budget Act each year, beginning with the Budget Act for the 1975–76 fiscal year, the board shall determine, on the basis of expenditures authorized in the Budget Act to be made from the State Energy Resources Conservation and Development Special Account in the General Fund, the unappropriated balance in that account, and its estimate of kilowatt-hours to which the surcharge will apply, a surcharge rate that it estimates will produce sufficient revenues to fund the expenditures authorized.

SEC. 6.5. Section 40031 of the Revenue and Taxation Code is amended to read:

40031. Following submission of the Governor's Budget each year by the Governor, the board shall determine, on the basis of expenditures authorized in the budget to be made from the State Energy Resources Conservation and Development Special Account in the General Fund, the unappropriated balance in that account, and its estimate of kilowatt-hours to which the surcharge will apply, a surcharge rate that it estimates will produce sufficient revenues to fund the expenditures authorized.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill No. 100 are both chaptered and become effective January 1, 1978, both bills amend Section 434.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 100, that the amendments to Section 434.5 proposed by both bills be given effect and incorporated in Section 434.5 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 100 are both chaptered and become effective January 1, 1978, both amend Section 434.5, and this bill is chaptered after Assembly Bill No. 100, in which case Section 1 of this act shall not become operative.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 373 are both chaptered and become effective January 1, 1978, both bills amend Section 40031 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 373, that the amendments to Section 40031 proposed by both bills be given effect and incorporated in Section 40031 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Senate Bill No. 373 are both chaptered and become effective January 1, 1978, both amend Section 40031, and this bill is chaptered after Senate Bill No. 373, in which case Section 6 of this act shall not become operative.

CHAPTER 941

An act to add Section 7507 to the Government Code, relating to public retirement systems.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 7507 is added to the Government Code, to read:

7507. The Legislature and local legislative bodies shall secure the services of an enrolled actuary to provide actuarial evaluations of future annual costs before authorizing increases in public retirement plan benefits. An "enrolled actuary" means an actuary enrolled under subtitle C of Title III of the federal Employee Retirement Income Security Act of 1974 and "future annual costs" shall include, but not be limited to, annual dollar increases or the total dollar increases involved when available.

The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the adoption of any increases in public retirement plan benefits.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 942

An act to add Section 13303 to the Government Code, relating to state funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 13303 is added to the Government Code, to read:

13303. Notwithstanding any other provision of law, all accounts, special accounts and funds established by statute in the General Fund to reserve specific revenues for a particular department, activity, purpose, or program for an indefinite period of time shall, on and after July 1, 1978, be treated for accounting and budgeting purposes as other governmental cost funds. Such accounts, special accounts, and funds shall be excluded in determining, estimating or reporting revenues and transfers, expenditures, receipts,

disbursements, assets, liabilities, surplus, or reserves in any balance sheet, budget, or other statement of the financial operations or condition of the General Fund.

SEC. 2. Section 13303 of the Government Code shall also apply to the moneys in the General Fund reserved by statutes or code sections, hereafter referred to as indicated:

(a) Chapter 265, Statutes of 1974—Hostel Facility Use Fees Account.

(b) Section 15863 of the Government Code—Property Acquisition Law Account.

(c) Section 14678 of the Government Code—Motor Vehicle Parking Facilities Account.

(d) Subdivision (e) of Section 11105 of the Penal Code—Fingerprint Fees Account.

(e) Subdivision (c) of Section 4706.5 of the Labor Code—Subsequent Injuries Account.

(f) Section 4454 of the Government Code—Handicapped Compliance Review Special Account.

SEC. 3. It is the intent of the Legislature in enacting this act to simplify the accounting and budgeting procedures of the state, and to provide a better understanding of the resources of the General Fund which are not reserved or restricted by statute for special purposes.

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

In order to implement the accounting and budgeting procedures which will be enacted by this act commencing with the start of the 1978–79 fiscal year, it is necessary that this act become effective immediately.

CHAPTER 943

An act to add Chapter 12 (commencing with Section 19790) to Part 2 of Division 5 of Title 2 of the Government Code, relating to state civil service.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. The Legislature finds and declares that:

(a) The State of California remains committed to its policy of nondiscrimination and equal employment opportunity and to continuing and expanding positive programs which will assure the strengthening of this policy. To this end the Legislature accepts

leadership responsibility for insuring that equal employment opportunities are available to all applicants and employees in all agencies and departments in the state civil service system.

(b) It is the policy of the Legislature to encourage the state civil service system to utilize to the maximum all available human resources to provide equal employment opportunity to all persons without regard to race, color, religion, national origin, political affiliation, sex, age, or marital status; and, insofar as possible, to achieve and maintain a work force in which are represented the diverse elements of the population of the State of California.

(c) Beyond assurances of nondiscrimination, it is the policy of the State of California to have each state hiring unit initiate comprehensive written affirmative action programs which will take steps to remedy any disparate staffing and recruitment patterns.

(d) This equal employment opportunity policy is adopted to insure that maximum utilization of human resources occurs, that true equality of opportunity is a reality with the State of California, and that the rights of all employees and applicants are safeguarded.

SEC. 2. Chapter 12 (commencing with Section 19790) is added to Part 2 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 12. STATE CIVIL SERVICE AFFIRMATIVE ACTION PROGRAM

19790. Each agency and department is responsible for establishing an effective affirmative action program. The State Personnel Board shall be responsible for providing statewide advocacy, coordination, enforcement, and monitoring of these programs.

Each agency and department shall establish goals and timetables designed to overcome any identified underutilization of minorities and women in their respective organizations. Agencies and departments shall determine their annual goals and timetables by June 1 of each year beginning in 1978. These goals and timetables shall be made available to the public upon request. All goals and timetables shall then be submitted to the board for review and approval or modification no later than July 1 of each year.

19791. As used in this chapter:

(a) "Goal" means a projected level of achievement resulting from an analysis by the employer of its deficiencies in utilizing minorities and women and what reasonable remedy is available to correct such underutilization. Goals shall be specific by the smallest reasonable hiring unit, and shall be established separately for minorities and women.

(b) "Timetable" means an estimate of the time required to meet specific goals.

(c) "Underutilization" means having fewer persons of a particular group in an occupation or at a level in a department than would reasonably be expected by their availability.

19792. The State Personnel Board shall:

(a) Provide statewide leadership designed to achieve positive and continuing affirmative action programs in the state civil service.

(b) Develop, implement, and maintain affirmative action and equal employment opportunity guidelines.

(c) Provide technical assistance to state departments in the development and implementation of their affirmative action programs.

(d) Review and evaluate departmental affirmative action programs to insure that they comply with federal statutes and regulations.

(e) Establish requirements for improvement or corrective action to eliminate the underutilization of minorities and women.

(f) Provide statewide training to departmental affirmative action officers who will conduct supervisory training on affirmative action.

(g) Review, examine the validity of, and update qualifications standards, selection devices, including oral appraisal panels and career advancement programs.

(h) Maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of progress in affirmative action and equal employment opportunity within the state civil service. Such statistical information shall include specific data to determine the underutilization of minorities and women. The statistical information shall be made available during normal working hours to all interested persons. Data generated on a regular basis shall include, but not be limited to, the following:

(1) Current state civil service work force composition by race, sex, age, department, salary level, occupation, and attrition rates by occupation.

(2) Current local and regional work force and population data of women and minorities.

(i) Data analysis shall include, but not be limited to, the following:

(1) Data relating to the utilization by department of minorities and women compared to their availability in the labor force.

(2) Turnover data by department and occupation.

(3) Data relating to salary administration, such as average salaries by race and sex, and comparisons of salaries within state service and comparable state employment.

(4) Data on employee age, and salary level compared among races and sexes.

(5) Data on the number of women and minorities recruited for, participating in and passing state civil service examinations. Such data shall be analyzed pursuant to the provisions of Sections 19704 and 19705.

(6) Data on the job classifications, geographic locations, separations, salaries, and other conditions of employment which provide additional information about the composition of the state civil service work force.

19793. By November 15 of each year beginning in 1978, the State Personnel Board shall report to the Governor, the Legislature, and

the Department of Finance on the accomplishment of each state agency and department in meeting its stated affirmative action goals for the past fiscal year. The report shall include information to the Legislature of laws which discriminate or have the effect of discrimination on the basis of race, color, religion, national origin, political affiliation, sex, age, or marital status. The Legislature shall evaluate the equal employment opportunity efforts and affirmative action progress of state agencies during its evaluation of the Budget Bill.

19794. In cooperation with the State Personnel Board, the director of each department shall have the major responsibility for monitoring the effectiveness of the affirmative action program of the department.

19795. The secretary of each state agency and the director of each state department shall appoint an affirmative action officer, other than the personnel officer, except in a department with less than 500 employees the affirmative action officer may be the personnel officer who shall report directly, and be under the supervision of, the director of the department, to develop, implement, coordinate, and monitor the agency or departmental affirmative action program. The departmental or agency affirmative action officer shall, among other duties, analyze and report on appointments of employees, request appropriate action of the departmental director or agency secretary, submit an evaluation of the effectiveness of the total affirmative action program to the State Personnel Board annually, monitor the composition of oral panels in departmental examinations, and perform other duties necessary for the effective implementation of the departmental and agency affirmative action plans.

The departmental and agency affirmative action officers shall be assisted in these responsibilities by an equal employment opportunity committee as determined by the department whose day-to-day responsibilities are vital to the effective implementation of the affirmative action program.

19796. Bureau or division chiefs within a department or agency shall be accountable to the department director for the effectiveness and results of the program within their division or bureau. Each bureau or division may assign an administrator to assist the departmental affirmative action officer.

All management levels, including firstline supervisors, shall provide program support and take all positive action necessary to ensure and advance equal employment opportunity at their respective levels.

19797. Each state agency and department shall develop, update annually, and implement an affirmative action plan which shall at least identify the areas of underutilization of minorities and women within each department by job category and level, contain an equal employment opportunity analysis of all job categories and levels within the hiring jurisdiction, and include an explanation and

specific actions for improving the representation of minorities and women.

CHAPTER 944

An act to amend Section 41177 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 41177 of the Health and Safety Code is amended to read:

41177. The Housing Predevelopment Loan Fund shall be administered by the director and such persons within the department as the director may designate.

The revolving loan fund shall be administered in accordance with the following:

(a) The department may not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time.

(b) The department shall require adequate security for all loans made from the revolving loan fund. The term "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option except that in the case of Indian Trust Land a mortgage on a leasehold interest in the property shall be acceptable.

(c) The department shall, from time to time, direct the State Treasurer to invest moneys of the revolving loan fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the State Treasurer to deposit moneys from the revolving loan fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the revolving loan fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3, Part 2, Division 4, Title 2 of the Government Code. All interest, dividends, and pecuniary gains from such investments or deposits shall accrue to the Housing Predevelopment Loan Fund.

(d) In complying with the provisions of Section 41109, the department shall also report annually to the Legislature and the Governor on the administration of the revolving loan fund. Such

report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents in assisted units, (4) the number and amount of loans made to each local governmental agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, (6) recommendations, as needed, to improve operations of the revolving loan fund, and (7) the number of loans made at interest rates lower than the average rate returned by the investment of state funds through the Pooled Money Investment Board for the past five fiscal years and the income of households assisted by such loans.

(e) (1) Except as provided in paragraph (2) of this subdivision, all loans made from the Housing Predevelopment Loan Fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the investment of state funds through the Pooled Money Investment Board for the five fiscal years immediately preceding the year in which the loan payment is made.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households, as described in Section 41067, provided, however, that if the department eliminates interest on a loan, it shall charge a loan origination fee of not to exceed 2 percent of the loan amount.

SEC. 2. The sum of one million fifty thousand dollars ($1,050,000) is hereby appropriated from the General Fund for deposit in the Housing Predevelopment Loan Fund which shall be allocated for expenditure in accordance with the following schedule:

Schedule:

(a) For making predevelopment loans pursuant to Sections 41175, 41176, and 41177 of the Health and Safety Code $1,000,000

(b) For Department of Housing and Community Development expenses in administering the predevelopment loan program under Sections 41175, 41176, and 41177 of the Health and Safety Code 50,000

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

1. The California Statewide Housing Plan documents a tremendous need in rural areas for housing affordable by low-income persons,

2. The state has declared its commitment to meet the housing needs of low-income Californians,

3. All moneys appropriated to the Predevelopment Loan Fund will

be committed in loans by July 1, 1977, leaving the fund incapable of meeting the continued demand for such loans,

4. More than 60 nonprofit organizations and housing authorities exist which can utilize predevelopment loans to obtain financing, particularly from the federal Farmers' Home Administration, to construct housing for low income persons in rural areas which would not otherwise be built,

5. Production of housing takes several years to complete and delay in availability of predevelopment loans will only mean greater delay in production of those houses, greater cost in their development (which is wasteful of the taxpayers' commitment), and delay in obtaining benefits from the jobs created in construction and related areas and sales and income tax revenues raised by the increased economic activity,

6. Therefore, it is essential that this act take immediate effect.

CHAPTER 945

An act relating to the state park system, and making an appropriation therefor.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Notwithstanding Sections 5075 and 5098.2 of the Public Resources Code, the sum of two million seven hundred thousand dollars ($2,700,000) is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for the planning, acquisition, and development of recreational trails to, between, and in units of the state park system pursuant to the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code) and in accordance with the following schedule:

Schedule:

(a) East Bay Corridor:	
Contra Costa and Alameda Counties	$500,000
Santa Clara and Santa Cruz Counties	$500,000
(b) Lake Tahoe Corridor:	
Placer and El Dorado Counties.....	$500,000
(c) Monterey Peninsula Corridor:	
Monterey County	$200,000
(d) Pacific Ocean Corridor:	
Los Angeles County	$1,000,000

Provided, however, that none of the

funds appropriated by this section may be encumbered for the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

CHAPTER 946

An act to amend Sections 5070.5, 5071, 5071.7, and 5075.3 of the Public Resources Code, relating to recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 5070.5 of the Public Resources Code is amended to read:

5070.5. The Legislature hereby declares that it is the policy of the state to:

(a) Increase accessibility and enhance the use and enjoyment of California's scenic, natural, historic, and cultural resources.

(b) Encourage hiking, horseback riding, and bicycling as important contributions to the health and welfare of the state's population.

(c) Provide for the use of recreational trails by physically handicapped persons.

(d) Increase opportunities for recreational boating on designated waterways.

(e) Increase opportunities for use of recreational vehicles in designated areas.

(f) Provide for the development and maintenance of a statewide system of recreational trails.

(g) Encourage the development by cities, counties, and districts of recreational trails.

SEC. 2. Section 5071 of the Public Resources Code is amended to read:

5071. The plan shall contain, but shall not be limited to, the following elements:

(a) Pedestrian trails.

(b) Bikeways.

(c) Equestrian trails.

(d) Boating trails.

(e) Trails and areas suitable for use by physically handicapped persons.

(f) Trails and areas for off-highway recreational vehicles.

(g) Cross-country skiing trails.

SEC. 3. Section 5071.7 of the Public Resources Code is amended to read:

5071.7. (a) In planning the system, the director shall consult with and seek the assistance of the Department of Transportation so that trail routes designated as part of the system and intended for nonmotorized transportation become part of the nonmotorized element of the California Transportation Plan being prepared pursuant to Section 14040 of the Government Code. The Department of Transportation shall plan and design those trail routes in the system that are contiguous to state highways and serve both a transportation and a recreational need.

(b) In planning boating trails and other segments of the system which are oriented to waterways, the director shall consult and seek the assistance of the Department of Navigation and Ocean Development. Such segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and the California Wild and Scenic Rivers System established pursuant to Chapter 1.4 (commencing with Section 5093.50) of this division.

(c) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation to assure that adequate provision is made for the use of recreational trails by physically handicapped persons.

SEC. 4. Section 5075.3 of the Public Resources Code is amended to read:

5075.3. In specifying criteria and standards for the design and construction of trail routes and complementary facilities as provided in subdivisions (b) and (c) of Section 5071.3, the director shall include the following:

(a) The following routes shall be given priority in the allocation of funds:

(1) Routes which are in proximity or accessible to major urban areas of the state.

(2) Routes which are located on lands in public ownership

(3) Routes which provide linkage or access to natural, scenic,

historic, or recreational areas of clear statewide significance.

(4) Routes which are, or may be, the subject of agreements providing for participation of other public agencies in state trail acquisition, development, or maintenance.

(b) Where feasible, trail uses may be combined on routes within the system; however, where trail use by motor vehicles is incompatible with other trail uses, separate areas and facilities should be provided.

(c) Trails should be located and managed so as to restrict trail users to established routes and to aid in effective law enforcement.

(d) Trails should be located so as to avoid severance of private property and to minimize impact on adjacent landowners and operations. The location of any trail authorized by this article shall, if the property owner so requests, be placed as nearly as physically practicable to the boundary lines of the property traversed by the trail, as such boundary lines existed as of January 1, 1975.

(e) Insofar as possible, trails should be designed and maintained to harmonize with, and complement, established forest, agricultural, and resource management plans. No trail, or property acquisition therefor, shall interfere with a landowner's water rights or his right to access to the place of exercise of such water rights.

(f) Trails should be planned as a system and each trail segment should be part of the overall system plan.

(g) Trails should be appropriately signed to provide identification, direction, and information.

(h) Rest areas, shelters, sanitary facilities, or other conveniences should be designed and located to meet the needs of trail users, including physically handicapped persons, and to prevent intrusion into surrounding areas.

(i) The department shall erect fences along any trail when requested to do so by the owner of adjacent land, or with the consent of the owner of such land when the department determines it will be in the best interests of the users of the trail and adjoining property owners, and shall place gates in such fences when necessary to afford proper access and at each point of intersection with existing roads, trails, or at used points of access to or across such trail. The department shall maintain such fences and gates in good condition.

(j) A landowner's right to conduct agricultural, timber harvesting, or mining activities on private lands adjacent to, or in the vicinity of, a trail shall not be restricted because of the presence of the trail.

SEC. 5. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for expenditure during the 1977–78, 1978–79, and 1979–80 fiscal years for the acquisition of land for the South Yuba River Trail Project, in accordance with the following schedule:

(a) The sum of one hundred seventeen thousand dollars ($117,000), to be expended in the 1977–78 fiscal year for the acquisition of the following parcels, as shown in the Official Records of the County of Nevada:

(1) Parcel No. 32-500-05 and those portions of Parcel No. 32-500-24 that are (A) west of the Jones Bar foot trail and northeast of a line parallel to Excelsior Ditch and at a distance of 200 feet from such ditch and (B) east of the Jones Bar foot trail.

(2) Parcel Nos. 32-530-01, 32-530-02, and 32-530-03.

(3) The west half of the Northwest Quarter of Section 33, T. 17 N., R. 8 E., D.B. & M.

(b) The sum of one hundred sixteen thousand five hundred dollars ($116,500), to be expended in each of the 1978–79 and 1979–80 fiscal years for the acquisition of the following parcels, as shown in the Official Records of the County of Nevada, in the following order:

(1) Parcel No. 32-40-25 (at the junction of Rush Creek and the South Yuba River).

(2) Parcel No. 32-540-03 (in Jones Ravine at its junction with the South Yuba River).

(3) The north 20 acres of Parcel No. 32-540-07 that are directly south of Parcel No. 32-40-25.

(4) The ditch easement in the southwest corner of Parcel No. 32-50-02; provided, however, that if this easement is not for sale separately, the entire parcel shall be purchased.

(5) Parcel No. 4-450-001, except the 10 acres that form a square in the northeast corner of this parcel.

(6) Parcel No. 30-170-01 (along Owl Creek south of lands of the Bureau of Land Management).

(7) The ditch easements east of State Highway Route 49 in the South Halves of Sections 32 and 33, T. 17 N., R. 8 E., D.B. & M.

(8) The Northeast Quarter of Section 33, and the northeast quarter of the Northwest Quarter of Section 33, T. 17 N., R. 8 E., D.B. & M.

(9) The southeast quarter of the Northwest Quarter of Section 33, T. 17 N., R. 8 E., D.B. & M.

(10) The West Half of Section 27 and the west half of the Southeast Quarter of Section 27, T. 17 N., R. 8 E., D.B. & M.

(11) The ditch easement in the south half of the Northeast Quarter of Section 27, T. 17 N., R. 8 E., D.B. & M.

(12) The north half of the Northeast Quarter of Section 27, T. 17 N., R. 8 E., D.B. & M.

SEC. 6. The acquisition of land authorized by Section 5 of this act shall be subject to the provisions of the Property Acquisition Law (commencing with Section 15850 of the Government Code), and none of such funds shall be expended on the purchase price of any real property until the State Public Works Board has determined both of the following:

(a) That there exists an agreement between the state and the federal government that there will be federal government development and operation of a trail upon the lands to be acquired by the state.

(b) That the procedures and criteria established by the Attorney

General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All materials relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act enacts provisions relating to facilities for physically handicapped persons in the California Recreational Trails System.

Also, property which would be acquired for the South Yuba River Trail Project with funds appropriated pursuant to this act may be sold for other purposes if not purchased immediately. In order, therefore, to ensure the acquisition of such property for the South Yuba River Trail Project, and also to ensure that the California Recreational Trails System includes facilities to meet the needs of physically handicapped persons at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 947

An act relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of three million dollars ($3,000,000), or so much thereof as may be necessary, is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for the restoration and conversion, including planning and working drawings, of the Old Administration Building Complex at Fresno City College as a San Joaquin Valley agricultural museum within the state park system. No money appropriated in this section may be encumbered unless and until the state is conveyed by gift or otherwise, full fee title in the building and its site; and unless and until the department, the City of Fresno, and the County of Fresno enter into an agreement for the joint operation and maintenance of the unit to be acquired pursuant to this act by the city and county, which agreement shall provide (1)

that all revenues derived from the museum shall be expended by the city and county for the operation and maintenance of the museum, (2) that the state shall hold harmless the State Center Community College District from any liability in connection with the restoration and conversion, (3) that, in the event the agreement is terminated, the city and the county shall reimburse the department, for deposit in the Park and Recreation Revolving Account, all state moneys expended for the restoration and conversion of the building, and (4) that, in the event the building is no longer used as a unit of the state park system, the state shall convey full fee title in the building and its site to the State Center Community College District. In addition, the department may expend the money appropriated in this section for the restoration and conversion, including planning and working drawings, of the old gymnasium at Fresno City College as a part of the museum if the department, the city, the county, and the district enter into an agreement regarding the terms and conditions under which the department takes title to the gymnasium, including such terms and conditions as will assure access to the boilerroom in the basement of the gymnasium to personnel of the district. Such agreement shall also include all of the provisions specified in clauses (1) to (4), inclusive, of this section.

SEC. 2. The old administration building complex and the old gymnasium shall be restored and converted in accordance with the provisions of Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code, and the administration building shall be restored and converted in accordance with the configuration of the structure depicted on page III-31 of the "Feasibility Study on Rehabilitation of the Old Administration Building at Fresno City College as an Agricultural Museum" (Fresno City and County Historical Society, February, 1977).

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Inasmuch as the Old Administration Building Complex at Fresno City College will be demolished during 1977 unless state funding for its restoration is assured, it is necessary that this act take effect immediately.

CHAPTER 948

An act to amend Sections 102203 and 102204 of, and to add Article 8 (commencing with Section 102350) to Chapter 5 of Part 14 of Division 10 of the Public Utilities Code, relating to the Sacramento Regional Transit District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 102203 of the Public Utilities Code is amended to read:

102203. Subject to the provisions of Article 7 (commencing with Section 102330) or Article 8 (commencing with Section 102350) of this chapter, the district may levy, and collect, or cause to be collected, taxes for any lawful purpose, as provided by law.

SEC. 2. Section 102204 of the Public Utilities Code is amended to read:

102204. Except as otherwise provided in this part, district elections shall be called, held, and conducted as provided by law for county elections. Except in cases of emergency or compelling public need, as determined by the district, district elections, including those held pursuant to Article 7 (commencing with Section 102330) or Article 8 (commencing with Section 102350) of this chapter or Article 1 (commencing with Section 102500) of Chapter 7 of this part, shall be held and consolidated with city, county, or state elections, or any election held under the provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 12 of the Elections Code).

SEC. 3. Article 8 (commencing with Section 102350) is added to Chapter 5 of Part 14 of Division 10 of the Public Utilities Code, to read:

Article 8. Retail Transactions and Use Tax

102350. A retail transactions and use tax ordinance may be adopted by the board in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, provided a majority of the electors voting on the measure vote to authorize its enactment at a special election called for that purpose by the board.

102351. Notwithstanding the provisions of Section 7261 and 7262 of the Revenue and Taxation Code, the retail transactions and use tax ordinance shall provide for rates of one-quarter or one-half of one percent. The ordinance shall apply only within that portion of the district that consists of the City of Sacramento and the unincorporated territory of the County of Sacramento which is activated as part of the district as of the date of any election relating to the tax authorized by this article.

Funds generated from the levy of such tax shall constitute local financial support for the purposes of Section 99269 and may be used to satisfy the requirements of such section in lieu of general fund moneys of the City or County of Sacramento.

102352. Any transactions and use tax ordinance adopted shall be operative on the first day of the first calendar quarter commencing

not less than 180 days after adoption of the ordinance.

102353. The district may contract with the State Board of Equalization for its service in the preparations necessary to administer a transactions and use tax ordinance. The costs to be covered by the contract are to be for services of the types described in Section 7272 of the Revenue and Taxation Code for preparatory work up to the date of the adoption of the ordinance. Any disputes as to the amount of the costs shall be resolved in the same manner as provided in that section.

102354. (a) Prior to the operative date of the transactions and use tax ordinance, the district shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of the ordinance.

(b) If the district has not contracted with the State Board of Equalization prior to the operative date of its transactions and use tax ordinance, it shall nevertheless so contract; and, in such a case, the operative date shall be the first day of the first calendar quarter following the execution of the contract.

102355. Repeal of the transactions and use tax ordinance shall not be operative earlier than the first day of the first calendar quarter following the adoption of the ordinance of repeal.

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

In order that the electors of the portion of the Sacramento Regional Transit District that is subject to this act may vote upon the proposals contained in this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 949

An act to add Section 4443 to the Public Resources Code, relating to fire prevention, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 4443 is added to the Public Resources Code, to read:

4443. No person shall use, operate, or cause to be operated on any forest-covered land, brush-covered land, or grass-covered land any handheld portable, multiposition, internal-combustion engine manufactured after June 30, 1978, which is operated on hydrocarbon fuels, unless it is constructed and equipped and maintained for the prevention of fire.

The board shall, by regulation, specify standards for construction, equipment, and maintenance of such engines for the prevention of fire and shall specify a uniform method of testing to be used by engine and equipment manufacturers, governmental agencies, and equipment users. The regulations shall include specification of exhaust system standards for carbon particle retention or destruction, exposed surface temperature, gas temperature, flammable debris accumulation, durability, and serviceability.

Portable power saw and other portable equipment described in this section which were manufactured prior to July 1, 1978, shall be subject to fire safety design specifications as prescribed by the board.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

As a result of drought conditions there is an extreme fire hazard condition in the state which poses a major threat to property. In order to reduce the danger of fire caused by portable power saws and other portable equipment at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 950

An act to amend Sections 99233.2, 130051, 130052, 130053, 130054, 130059, 130104, 130109, 130252, 130254, 130292, and 130304 of, to add Sections 130051.5, 130051.6, 130054.8, and 130254.5 to, and to repeal Section 130051.5 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 99233.2 of the Public Utilities Code is amended to read:

99233.2. (a) Except as provided in subdivision (b), there shall be allocated to the transportation planning agency, if it is statutorily created, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and programming process, unless a greater amount is approved by the secretary.

(b) In those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commission in Los Angeles County and up to 2 percent of the annual revenues shall be allocated to the commissions in Orange, Riverside, and San Bernardino Counties for

the transportation planning and programming process. In addition, up to three-fourths of 1 percent of annual revenues shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency carrying out its responsibilities under Division 12 (commencing with Section 130000).

SEC. 1.5. Section 130051 of the Public Utilities Code is amended to read:

130051. The Los Angeles County Transportation Commission shall consist of 12 members appointed as follows:

(a) Five members of the Los Angeles County Board of Supervisors shall serve on the commission or the board may appoint, as an alternate member to a supervisor, a mayor or city councilman of any city, other than the City of Long Beach or Los Angeles, within Los Angeles County or a private individual.

(b) The Mayor of the City of Los Angeles or an alternate appointed by the mayor.

(c) Two members appointed by the Mayor, with the consent of the City Council, of the City of Los Angeles. If the mayor appoints a member of the city council, consent of the city council is not necessary.

(d) Two members appointed by the Los Angeles County City Selection Committee, excluding the members representing the Cities of Long Beach and Los Angeles.

(e) One member appointed by the City Council of the City of Long Beach, which member shall be a member of the city council.

(f) One nonvoting member appointed by the Governor.

SEC. 2. Section 130051.5 of the Public Utilities Code is repealed.

SEC. 3. Section 130051.5 is added to the Public Utilities Code, to read:

130051.5. (a) The appointing authority specified in subdivision (c), (d), or (e) of Section 130051 may appoint an alternate member to the Los Angeles County Transportation Commission to represent, on a temporary basis, a regular member it has appointed, but only in those cases where the regular member cannot attend the meeting.

(b) For purposes of this section, an alternate member shall be:

(1) In the case of the two members appointed by the Mayor of the City of Los Angeles, any person appointed by the mayor with the consent of the City Council of the City of Los Angeles. If the alternate member is a member of the city council, consent of the city council is not necessary.

(2) In the case of the Los Angeles County City Selection Committee, excluding the members representing the Cities of Long Beach and Los Angeles, any mayor or city councilman serving within Los Angeles County, excluding those two cities and the cities the regular members are from.

(3) In the case of the City of Long Beach, another member of the City Council of the City of Long Beach.

(c) Any alternate member appointed to the Los Angeles County Transportation Commission, including any appointed pursuant to Section 130051, shall act for, and in the interests, of his appointing authority. No alternate member shall serve on both the Board of Directors of the Southern California Rapid Transit District and the Los Angeles County Transportation Commission.

SEC. 4. Section 130051.6 is added to the Public Utilities Code, to read:

130051.6. (a) Except as provided in subdivision (b), each member of the Los Angeles County Transportation Commission shall serve a term of four years and until the successor is appointed and qualified. Other than the member initially appointed by the Governor, the members initially appointed shall serve until January 1, 1981.

(b) The membership of any member serving on the commission as a result of holding another public office shall terminate when the member ceases holding the other public office.

(c) The Los Angeles County City Selection Committee, excluding the members representing the Cities of Long Beach and Los Angeles, shall not appoint any individual to serve more than two terms on the commission.

SEC. 5. Section 130052 of the Public Utilities Code is amended to read:

130052. The Orange County Transportation Commission shall consist of six members appointed as follows:

(a) Two members of the Orange County Board of Supervisors appointed by that board, one of whom shall serve on the Board of Directors of the Orange County Transit District.

(b) Two members appointed by the Orange County City Selection Committee, one of whom shall serve on the Board of Directors of the Orange County Transit District.

(c) One member appointed by the other four voting members of the commission, which member shall be a resident of Orange County who is not then serving, and has not within the last 10 years served, as an elected official of a city within the county, as an elected official of the county, or as a public member on the Board of Directors of the Orange County Transit District.

(d) One nonvoting member appointed by the Governor.

SEC 6. Section 130053 of the Public Utilities Code is amended to read:

130053. The Riverside County Transportation Commission shall consist of eight members appointed as follows:

(a) Three supervisors appointed by the Riverside County Board of Supervisors, one of whom shall represent a supervisorial district in the eastern desert area of the county and two of whom shall represent supervisorial districts in the western urbanized area of the county.

(b) Two members appointed by the Riverside County City

Selection Committee, excluding the member representing the City of Riverside, who shall be mayors or city councilmen serving within the county.

(c) One member appointed by the Mayor of the City of Riverside with the consent of the City Council of the City of Riverside, which member shall be either a member of the city council or the mayor.

(d) One citizen member appointed by the other six voting members of the commission, which member shall be an elected official in the county or a citizen who is not such an elected official but who is a resident of the county.

(e) One nonvoting member appointed by the Governor.

SEC. 7. Section 130054 of the Public Utilities Code is amended to read:

130054. The San Bernardino County Transportation Commission shall be the San Bernardino Associated Governments, consisting of the following members:

(a) Five members of the San Bernardino County Board of Supervisors.

(b) One member from each of the incorporated cities of San Bernardino County, who shall be a mayor or a city councilman.

(c) One nonvoting member appointed by the Governor.

SEC. 8. Section 130054.8 is added to the Public Utilities Code, to read:

130054.8. Not later than February 1, 1978, the Governor shall appoint a nonvoting member to each of the commissions to represent the interest of state.

The initial appointees shall serve until January 1, 1982. Thereafter, the appointees shall serve terms of four years and until their successors are appointed and qualified.

No individual shall serve as a nonvoting member more than two terms on a commission.

SEC. 9. Section 130059 of the Public Utilities Code is amended to read:

130059. The multicounty designated transportation planning agency shall convene at least two meetings annually of representatives from each of the four commissions, the agency, and the Department of Transportation for the following purposes:

(a) To review and discuss the near-term transportation improvement programs prior to adoption by the commissions.

(b) To review and discuss the regional transportation plan prior to adoption by the agency pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

(c) To consider progress in the development of a regionwide and unified public transit system.

(d) To review and discuss any other matter of mutual concern.

SEC. 10. Section 130104 of the Public Utilities Code is amended to read:

130104. (a) All meetings of the commission shall be conducted in the manner prescribed by the Ralph M. Brown Act (Chapter 9

(commencing with Section 54950), Part 1, Division 2, Title 5 of the Government Code).

(b) All meetings of the citizens' advisory committee and technical advisory committee shall be held pursuant to Section 54952.3 of the Government Code, and no other provision of the Ralph M. Brown Act shall apply to meetings of these committees.

SEC. 11. Section 130109 of the Public Utilities Code is amended to read:

130109. (a) Except as otherwise provided in subdivision (b), the commission shall enter into a contract with the Board of Administration of the Public Employees' Retirement System, and the board shall enter into such a contract, to include all of the employees of the commission into that retirement system, and the employees shall be entitled to substantially similar health benefits as are state employees pursuant to Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code.

(b) For purposes of providing retirement benefits, the commission may contract with the retirement system that the employees of the county in which the commission is located are members of in lieu of contracting with the board.

SEC. 11.5. Section 130252 of the Public Utilities Code is amended to read:

130252. (a) All plans proposed for the design, construction, and implementation of public mass transit systems or projects, including exclusive public mass transit guideway systems or projects, and federal-aid and state highway projects, shall be submitted to the commission for approval. No such plan shall be approved unless it conforms to the appropriate adopted regional transportation plan pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

(b) The commission shall have no approval authority with respect to projects on state highway routes determined by the State Transportation Board to be of statewide significance. The commission shall also have no approval authority over the projects, plans, and programs determined by the Department of Transportation to be necessary for the safety, operation, and maintenance of the state highway system. Such projects, plans, and programs shall be developed by the department and, to the extent feasible, be coordinated with the planning of the commission. Plans and programs involving significant rebuilding or rehabilitation of the state highway system, as determined by the department and the commission, shall be developed jointly by the department and the commission.

(c) As used in this section, "plan" means a project description and not the detailed project plans, specifications, and estimates.

SEC. 12. Section 130254 of the Public Utilities Code is amended to read:

130254. The commission shall designate the operator of any approved transit guideway system.

Except as specified in Section 130254.5, the Los Angeles County Transportation Commission shall designate the Southern California Rapid Transit District as the transit guideway operator in Los Angeles County.

The Orange County Transportation Commission shall designate the Orange County Transit District as the transit guideway operator in Orange County.

SEC. 13. Section 130254.5 is added to the Public Utilities Code, to read:

130254.5. The City of Los Angeles may design, construct, and operate a point-to-point transportation system on or between property under the jurisdiction and control of its Department of Airports.

Once constructed and in operation, any such transportation system shall be coordinated with motor vehicle traffic operation and transit services by the county transportation commission having jurisdiction in the county in which the transportation system is located.

With the prior approval of the county transportation commission having such jurisdiction, the City of Los Angeles may submit applications for federal highway or transit funds or state highway or transit funds to construct or operate a point-to-point transportation system on or between property under the jurisdiction and control of its Department of Airports. This requirement shall not apply to any grant of such funds awarded prior to January 1, 1978.

SEC. 14. Section 130292 of the Public Utilities Code is amended to read:

130292. There shall be transmitted to the Legislature a progress report not later than July 1, 1977, an interim report not later than February 1, 1978, and the final report containing all recommendations not later than July 1, 1978.

The commission shall also provide in the final report information on the administration of the commission including, but not limited to, the operating budget, size and salaries of staff, consultant and other contractual expenses, and sources of funds being utilized.

SEC. 15. Section 130304 of the Public Utilities Code is amended to read:

130304. (a) The commission shall submit the short-range transportation improvement program prepared pursuant to subdivision (b) of Section 130303 to the multicounty designated transportation planning agency. The program shall be the commission's recommendation to the agency regarding that portion of the regional transportation plan with respect to the schedule of improvements and the financial plan as required pursuant to subdivision (e) of Section 65081 of the Government Code. The recommended program shall be submitted to the agency in a timely fashion, and the agency shall review and adopt this element of the regional transportation plan in a timely fashion, giving full explanation for any necessary modification of the commission's recommended program.

(b) The multicounty designated transportation planning agency may revise the submitted transportation improvement program in order to resolve conflicts between the recommended programs or with the adopted regional transportation plan. In case of a disagreement as to the resolution of such a conflict between the agency and the involved county transportation commissions, the State Transportation Board shall resolve the conflict.

CHAPTER 951

An act to amend Sections 26225 and 26226 of the Water Code, relating to irrigation districts.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 26225 of the Water Code is amended to read:

26225. Property sold for delinquent assessments may be redeemed within five years from the date of sale, or thereafter before a collector's deed of the property has been delivered.

Where a collector's deed has been delivered to the district, the period of redemption is extended until the first bid is received for the property or until the board determines the property is not to be sold as provided in Section 26290.

Redemption before a collector's deed of the property has been delivered may be made by payment in lawful money of the United States to the collector of the amount for which the property was sold plus a penalty of three-fourths of 1 percent per month from the date of sale until redemption. Redemption after a collectors deed has been delivered may only be made by payment of the total of the following amounts:

(a) The total of the amount of the sale shown on each certificate of sale outstanding.

(b) A penalty on each certificate of sale outstanding of three-fourths of 1 percent per month from the date of sale until redemption.

(c) An amount for each year of escaped assessment determined as follows: The assessor shall establish the assessment value for the land for each year of escaped assessment and the collector shall apply the rate fixed in that year to determine the amount of the escaped assessment.

SEC. 2. Section 26226 of the Water Code is amended to read:

26226. On receipt of the redemption money plus the amount of the recorder's fee fixed in this article the collector shall make out duplicate certificates of redemption reciting the payment and

stating the date and number of the certificate of sale to which the redemption applies. If a collector's deed is outstanding at the time of redemption the certificate of redemption shall also state the date of the deed and the place, book, and page at which it was recorded and shall constitute redemption from the deed, as well as all outstanding certificates of sale on the property.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 952

An act to amend Section 65302.2 of, and to add Sections 65302.6 and 65302.7 to, the Government Code, relating to general plans.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 65302.2 of the Government Code is amended to read:

65302.2. Notwithstanding any other provision of law, every city and county shall prepare and adopt the seismic safety element, the noise element, the safety element, the scenic highway element, and any other element hereafter required to be included in its general plan no later than one year following the adoption of guidelines for the preparation of such elements pursuant to Section 65040.2 or, in the case of counties with a population of 100,000 or less no later than December 31, 1976.

SEC. 2. Section 65302.6 is added to the Government Code, to read:

65302.6. (a) Notwithstanding any other provision of law, upon application by a city, county, or city and county, including any city incorporated after September 30, 1974, the Director of Planning and Research may grant a reasonable extension of time not to exceed one year for the preparation and adoption of one or more general plan elements required by this article.

The director shall not grant an extension of time unless he makes one or more of the following findings:

1. Data required for the element must be provided by another agency and it has not yet been provided;

2. In spite of sufficient budgetary provisions and substantial recruiting efforts, the local agency has been unable to obtain necessary staff or consultant assistance;

3. A disaster has occurred requiring reassignment of staff for an

extended period or requiring a complete reevaluation and revision of the entire general plan, or both;

4. Review procedures in local ordinances require an extended public review process which has resulted in delaying the decision by the local government's legislative body;

5. The city or county is jointly preparing the elements along with one or more other jurisdiction, pursuant to an existing agreement and timetable for completion; or

6. Additional procedural reasons exist which the director deems to justify the granting of an extension, so that the production and adoption of complete and adequate general plans is promoted.

(b) The purpose of this section is to permit cities and counties that have not yet adopted complete and adequate general plans to continue to review and approve development proposals pending adoption of a complete and adequate general plan; provided, however, such approvals are consistent with local policies and the element or elements for which an extension of time is sought.

(c) The application for an extension specified in paragraph (a) of this section shall contain the following elements:

(1) A resolution of the governing body of the city or county adopted after a public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law and the amount of additional time necessary to complete the preparation and adoption of all required elements.

(2) A copy of the specific budget and schedule for the general plan preparation and adoption including plans for citizen participation and expected interim products. The budget and schedule should be of sufficient detail to allow the director to assess each applicant's progress at regular intervals during the term of the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the land use proposed in an application for a subdivision, rezoning, land use permit, variance or building permit will be consistent with the existing general plan elements, and on the basis of available information will be consistent with the new elements or plan proposals being considered or studied.

(d) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted or the time within which it must be adopted or the requirement that the land use be compatible or consistent with the general plan as required by Government Code Sections 65302, 65563, 65567, 65860, 65910, 66473.5 or subdivisions (a) or (b) of Section 66474. The provisions of this section shall apply only to those elements for which an extension has been granted. The city or county shall comply with all state laws and shall base all required findings on the existing adopted elements.

(e) The director may impose any conditions on extensions of time granted which he deems are necessary to ensure full compliance with the State Planning and Zoning Law. In establishing such

conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city, county, or city and county, pursuant to subsection (3) of subdivision (c).

(f) In the event that a city or county which has been granted a time extension pursuant to this section determines that it will not be able to complete the element or elements for which the extension has been granted, within the prescribed time period, such city or county may request one additional extension. The director may grant such an additional extension of time, not to exceed one year, provided that the city or county is able to demonstrate that both substantial effort and substantial progress has been made toward the completion of such element or elements.

SEC. 3. Section 65302.7 is added to the Government Code, to read:

65302.7. Any city, county or city and county whose application for extension of time under Section 65302.6 has been denied or approved with conditions by the director may appeal such denial or approval with conditions to the Planning Advisory and Assistance Council. The council may fully review the action of the director and act upon the application and approve, conditionally approve or deny the application, and the decision of the council shall be final. If the council acts on an appeal and by doing so grants a one-year extension, such extension of time shall run from the date of the action by the council.

CHAPTER 953

An act to amend Section 34130 of, and to add Sections 33328.7 and 34118 to, the Health and Safety Code, relating to housing and community development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 33328.7 is added to the Health and Safety Code, to read:

33328.7. Any costs incurred by a county in preparing a report pursuant to Section 33328 or 33328.3 shall be reimbursed by the redevelopment agency which filed for the report as provided in such sections. In the event a final redevelopment plan is adopted for all or a portion of the project area concerning which the report is prepared, the agency may charge and account for such reimbursed costs as a cost of the redevelopment project. Otherwise such costs shall be accounted for as general administrative expenses of the agency.

SEC. 2. Section 34118 is added to the Health and Safety Code, to read:

34118. Notwithstanding Section 34140 or any other provision of this part, a commission established prior to January 1, 1978, shall not be vested with the powers, duties, and responsibilities of the commissioners of the housing authority, nor shall the commission operate and govern the housing authority, unless:

(a) The ordinance adopted by the legislative body declaring a need for the commission to function in the community declares, or is subsequently amended to declare, that the commission shall be vested with the rights, powers, duties, and responsibilities of the commissioners of the housing authority; or

(b) Prior to the effective date of this section, the commission has assumed and exercised the rights, powers, duties, and responsibilities of the commissioners of the housing authority.

SEC. 3. Section 34130 of the Health and Safety Code is amended to read:

34130. (a) When the legislative body adopts an ordinance declaring the need for a commission, the mayor or chairman of the board of supervisors or similar official, with the approval of the legislative body, shall appoint the number of resident electors of the community as commissioners as the legislative body prescribe by ordinance. The legislative body by ordinance may increase or decrease the number of commissioners. The legislative body, except as otherwise expressly provided in subdivision (b), shall establish and provide for the terms, compensation, and removal of the commissioners. The legislative body shall provide procedures for appointment or election of the officers of the commission.

(b) Two of the commissioners shall be tenants of the housing authority if the housing authority has tenants. One such tenant commissioner shall be over the age of 62 years if the housing authority has tenants of such age If the housing authority does not have tenants, the legislative body shall, by ordinance, provide for appointment to the commission of two tenants of the housing authority within one year after the housing authority first does have tenants. The term of any tenant commissioner appointed pursuant to this subdivision shall be two years from the date of appointment. If a tenant commissioner ceases to be a tenant of the housing authority, he shall be disqualified from serving as a commissioner and another tenant of the housing authority shall be appointed to serve the remainder of the unexpired term. A tenant commissioner shall have all the powers, duties, privileges, and immunities of any other commissioner.

(c) Upon the appointment and qualification of a majority of the commissioners, the commission shall be vested with all the powers, duties, and responsibilities of the members of the redevelopment agency and, if the legislative body so elects, the commissioners of the housing authority. Members of the redevelopment agency and commissioners of a housing authority which has been placed under

the jurisdiction of the commission shall have no powers, duties, and responsibilities as long as the commission functions.

SEC. 4. Section 1 of this act shall not become operative until January 1, 1978.

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

This act will remove certain ambiguities of interpretation of Sections 34112, 34120, and 34130 of the Health and Safety Code with regard to the status of the commissioners of a housing authority, where a legislative body has declared the need for a community development commission, and will clarify the powers and authority of commissioners of a community development commission and commissioners of a housing authority.

CHAPTER 954

An act to add Section 767.5 to the Public Utilities Code, relating to pole attachments.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 767.5 is added to the Public Utilities Code, to read:

767.5. As used in this section, the term "public utility" includes any person, firm, or corporation except a publicly owned utility which owns or controls poles, ducts, conduits, or rights-of-way used or useful, in whole or in part, for wire communication.

The term "pole attachment" means any attachment for wire communication on or in any surplus space on or in any pole, duct, conduit, or other support structure located in any right-of-way owned, controlled, or used by a public utility.

The Legislature hereby finds that many public utilities have, through a course of conduct covering many years, made available the surplus space on and in their poles, ducts, conduits, and other support structures for use by the cable television industry for pole attachment service, and that the provision of such pole attachment service by such public utilities is and has been a public utility service.

Whenever a public utility and a cable television corporation are unable to agree upon the terms, conditions, or compensation for pole attachments or the terms, conditions, or cost of the production of surplus space needed for pole attachments, then the commission shall establish and regulate the rates, terms, and conditions for pole attachments and the terms, conditions, and costs of providing surplus

space needed for pole attachments so as to assure a public utility the recovery of not less than all the additional costs of providing and maintaining pole attachments, nor more than the actual capital and operating expenses, including just compensation, of the public utility attributable to that portion of the pole, duct, or conduit used for the pole attachment, including a share of the required support and clearance space, in proportion to the space used for the pole attachment, as compared to all other uses made of the subject facilities, and uses which remain available to the owner or owners of the subject facilities.

CHAPTER 955

An act to add Chapter 4.7 (commencing with Section 65970) to Division 1 of Title 7 of the Government Code, relating to land use.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Chapter 4.7 (commencing with Section 65970) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.7. SCHOOL FACILITIES

65970. The Legislature finds and declares as follows:

(a) Adequate school facilities should be available for children residing in new residential developments.

(b) Public and private residential developments may require the expansion of existing public schools or the construction of new school facilities.

(c) In many areas of the state, the funds for the construction of new classroom facilities are not available when new development occurs, resulting in the overcrowding of existing schools.

(d) New housing developments frequently cause conditions of overcrowding in existing school facilities which cannot be alleviated under existing law within a reasonable period of time.

(e) That, for these reasons, new and improved methods of financing for interim school facilities necessitated by new development are needed in California.

65971. If the governing body of a school district which operates an elementary or high school makes a finding supported by clear and convincing evidence that: (a) conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing; and (b) that all reasonable methods of mitigating conditions of overcrowding have been evaluated and no

feasible method for reducing such conditions exist, the governing body of the school district shall notify the city council or board of supervisors of the city or county within which the school district lies. The notice of findings sent to the city or county shall specify the mitigation measures considered by the school district. If the city council or board of supervisors concurs in such findings the provisions of Section 65972 shall be applicable to actions taken on residential development by such council or board.

65972. Within the attendance area where it has been determined pursuant to Section 65971 that conditions of overcrowding exist, the city council or board of supervisors shall not approve an ordinance rezoning property to a residential use, grant a discretionary permit for residential use, or approve a tentative subdivision map for residential purposes, within such area, unless the city council or board of supervisors makes one of the following findings:

(1) That an ordinance pursuant to Section 65974 has been adopted, or

(2) That there are specific overriding fiscal, economic, social, or environmental factors which in the judgment of the city council or board of supervisors would benefit the city or county, thereby justifying the approval of a residential development otherwise subject to Section 65974.

65973. As used in this chapter:

(a) "Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of such school as determined by the governing body of the district.

(b) "Reasonable methods for mitigating conditions of overcrowding" shall include, but are not limited to, agreements between a subdivider and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used.

(c) "Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

65974. For the purpose of establishing an interim method of providing classroom facilities where overcrowding conditions exist as determined necessary pursuant to Section 65971 and notwithstanding Section 66478, a city, county, or city and county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development, provided that all of the following occur:

(a) The general plan provides for the location of public schools.

(b) The ordinance has been in effect for a period of 30 days prior to the implementation of the dedication or fee requirement.

(c) The land or fees, or both, transferred to a school district shall

be used only for the purpose of providing interim elementary or high school classroom and related facilities.

(d) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the needs of the community for interim elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development.

(e) A finding is made by the city council or board of supervisors that the facilities to be constructed from such fees or the land to be dedicated, or both, is consistent with the general plan.

The ordinance may specify the methods for mitigating the conditions of overcrowding which the school district shall consider when making the finding required by subdivision (b) of Section 65971.

If the payment of fees is required, such payment shall be made at the time the building permit is issued.

Only the payment of fees may be required in subdivisions containing fifty (50) parcels or less.

65976. Following the decision by the city or county to require the dedication of land or the payment of fees, or both, the governing body of the school district shall submit a schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the city council or board of supervisors and the reasons for the modifications.

65977. Where two separate school districts operate schools in an attendance area where overcrowding conditions exist for both school districts, the governing body of the city or county shall enter into an agreement with the governing body of each school district for the purpose of determining the distribution of revenues from the fees levied pursuant to this chapter.

65978. Any school district receiving funds pursuant to this chapter shall maintain a separate account for any fees paid and shall file a report with the city council or board of supervisors on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased, or constructed during the previous fiscal year. In addition, the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be filed by August 1 of each year and shall be filed more frequently at the request of the board of supervisors or city council.

If overcrowding conditions no longer exist, the city or county shall cease levying any fee or requiring the dedication of any land pursuant to this chapter.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and

Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 956

An act to add Section 7210 to the Revenue and Taxation Code, and to add Chapter 5 (commencing with Section 99500) to Part 11 of Division 10 of the Public Utilities Code, relating to taxation.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Chapter 5 (commencing with Section 99500) is added to Part 11 of Division 10 of the Public Utilities Code, to read:

CHAPTER 5 MOTOR VEHICLE FUEL TAX

99500. (a) Except as specified in subdivision (b), in addition to taxes imposed pursuant to Part 2 (commencing with Section 7301) and Part 3 (commencing with Section 8601) of Division 2 of the Revenue and Taxation Code, a tax of one cent ($0.01) per gallon (or, in the case of compressed natural gas, per 100 cubic feet thereof as measured at standard pressure and temperature) may be imposed pursuant to Section 99502 by a taxing entity, as defined in Section 99501, in the area which is under its jurisdiction and which is included in a county that has approved a proposition pursuant to Section 4 of Article XIX of the California Constitution.

(b) No tax shall be imposed under this chapter on fuel used in propelling an aircraft or a vessel.

99501. For purposes of this chapter:

(a) "Taxing entity" means a county other than a county with a transit development board or a county under the jurisdiction of a county transportation commission created pursuant to Division 12 (commencing with Section 130000), a city and county, a county transportation commission, a transit development board, a transit district, or a city with a population in excess of 500,000 located within a transit district. The population of a city shall be as determined by the last preceding federal census or by a subsequent census validated by the Population Research Unit of the Department of Finance.

(b) "Transit vehicle" means a vehicle, including, but not limited to, one operated on rails or tracks, which is used for public transportation service and which carries more than 10 persons, including the driver.

99502. (a) The tax may be imposed by the adoption of an ordinance by a taxing entity if (1) it calls a special election for the submission of a proposition to grant it the authority to impose the tax

pursuant to the ordinance and (2) a majority of the voters voting at the special election approves the proposition. The special election may be held only when consolidated with an otherwise scheduled state election or local election for an area which includes the area under the jurisdiction of the taxing entity. In the case of the City of Los Angeles, it may call such a special election only after securing the approval of the Los Angeles County Transportation Commission.

(b) Where two or more taxing entities have jurisdiction over the same area and authorized pursuant to subdivision (a) to impose the tax under this chapter, the tax shall be imposed only by the taxing entity with the largest area under its jurisdiction.

99503. A special election for a transit development board or a transit district shall be conducted pursuant to the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code).

99504. (a) The taxing entity shall contract with the State Board of Equalization for the administration of the tax imposed pursuant to the adopted ordinance, and the state board shall be reimbursed for its cost in the administration of the tax.

(b) The taxing entity shall also reimburse the board for its cost of preparation to administer the tax.

99505. The ordinance shall include provisions identical to those contained in Part 2 (commencing with Section 7301) and Part 3 (commencing with Section 8601) of Division 2 of the Revenue and Taxation Code, except that the name of the taxing entity as the taxing agency shall be substituted for that of the state.

99506. The State Board of Equalization shall adopt the necessary rules and regulations to administer the tax.

99507. After deducting its cost in administering the tax, the State Board of Equalization shall transmit the net revenues to the taxing entity periodically as promptly as possible. The transmittals shall be made at least twice in each calendar quarter.

99508. The net revenues received by a taxing entity shall be expended only for the following:

(a) The planning, construction, and maintenance of, and the acquisition of rights-of-way for, exclusive public mass transit guideways and exclusive bus lanes and related fixed facilities to such guideways and bus lanes.

(b) The purchase of transit vehicles.

(c) The payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (a) or (b).

99509. (a) Notwithstanding Section 99505, any person required to pay a license tax under Section 7351 of the Revenue and Taxation Code shall also collect the tax imposed under this chapter from any person to whom he sells or distributes motor vehicle fuel and shall pay such tax also for all such fuel that he uses.

Any person paying the tax who, in turn, sells or distributes such fuel to another, whether or not for use, shall include the tax as part of the selling price of the fuel. Any person thereafter who pays a

price for the fuel, which includes an increment for the tax, and who subsequently resells the fuel shall include the increment so paid as part of the selling price of the fuel.

(b) Subdivision (a) of this section shall become operative only if a ruling of a federal agency becomes effective which precludes the tax imposed under this chapter on motor vehicle fuel from being included in the price charged by distributors to retailers or other persons, or precludes the increment of any price paid to the distributors that represents the tax imposed from being included in the price charged by retailers or other persons upon resale of the motor vehicle fuel, and, in such case, this subdivision shall become operative at the same time as such ruling becomes effective.

SEC. 2. Section 7210 is added to the Revenue and Taxation Code, to read:

7210. Notwithstanding Section 7203.5, the State Board of Equalization shall continue to administer the sales and use tax ordinance of any city, county, or city and county which adopts an ordinance imposing a tax on the sale, storage, use, or consumption of motor vehicle fuel pursuant to Chapter 5 (commencing with Section 99500), Part 11, Division 10 of the Public Utilities Code.

SEC. 3. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local government by this act.

CHAPTER 957

An act to add Section 14005.6 to the Elections Code, relating to elections.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 14005.6 is added to the Elections Code, to read:

14005.6. In addition to the provisions contained in Section 14005.5, the roster shall contain in no less than 6-point type at the head of each page the following words: "WARNING: It is a crime punishable by imprisonment in the state prison or in county jail for anyone to fraudulently vote, fraudulently attempt to vote, vote more than once, attempt to vote more than once, impersonate a voter, or attempt to impersonate a voter (Elections Code Sec. 29640)."

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local

governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 958

An act to amend Sections 11161.5 and 11161.7 of the Penal Code, relating to social services.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which a minor is brought to a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school, by any teacher of any public or private school, by any licensed day care worker, by an administrator of a public or private summer day camp or child care center, or by any social worker, by any peace officer, or by any probation officer, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, religious practitioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, administrator of a public or private summer day camp or child care center, social worker, peace officer, or probation officer, from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county

welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction and with the juvenile probation department as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be proven that a false report was made and the person knew or should have known that the report was false.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

SEC. 2. Section 11161.7 of the Penal Code is amended to read:

11161.7. (a) The Department of Justice, in cooperation with the State Office of Child Abuse Prevention, shall adopt and cause to be printed, for dissemination through the various county welfare departments, a form which shall be used by reporting professional medical personnel in making reports required to be made pursuant to Section 11161.5.

(b) Failure by professional medical personnel to use such form in

reporting an incident of possible child abuse shall not constitute a violation of Section 11162.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden on local government.

CHAPTER 959

An act making an appropriation for the support of rehabilitation facilities.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. The sum of ten thousand dollars ($10,000) for expenditure during the 1977–78 fiscal year and twenty thousand dollars ($20,000) for expenditure during the 1978–79 fiscal year is hereby appropriated from the General Fund in the State Treasury to the Department of Rehabilitation to be matched by available federal vocational rehabilitation funds for the purpose of implementing Article 1 (commencing with Section 19400) of Chapter 5 of Part 2 of Division 10 of the Welfare and Institutions Code. Such funds shall be utilized to establish a program which encourages purchases pursuant to Section 19403 of the Welfare and Institutions Code.

CHAPTER 960

An act to amend Section 1012 of the Military and Veterans Code, relating to veterans' institutions, and making an appropriation therefor.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 1012 of the Military and Veterans Code is amended to read:

1012. The home is for aged and disabled persons who served in the armed forces of the United States during a war period or period of hostility, as defined by law, or in time of peace in a campaign or

expedition for service in which a medal has been authorized by the government of the United States, who were discharged or released from active duty under honorable conditions from such service, who are eligible for hospitalization or domiciliary care in a veterans' facility in accordance with the rules and regulations of the United States Veterans Administration, and who have been bona fide residents of this state for five years immediately preceding the date of application; and for the spouses of such persons if all of the following conditions are satisfied:

(a) Space is available;

(b) Joint residency will be in the best interests of the home member, as determined by the administrator;

(c) The spouse has been a resident of this state for at least five years immediately preceding the date of application for admission to the home, is married to and has resided with the home member for at least one year, and has attained the age of 50 years; and

(d) The home member and spouse agree to pay such fees and charges for joint residency as the administrator may establish.

A resident spouse may continue such residence after the veteran's death.

The property of the home shall be used for this purpose.

SEC. 2. The sum of seventy-nine thousand one hundred twenty-five dollars ($79,125) is hereby appropriated from the General Fund to the Department of Veterans Affairs for expenditure, subject to approval by the State Public Works Board, during the 1977–78, 1978–79, and 1979–80 fiscal years, for modifications of the sewage treatment plant at the Veterans' Home of California.

CHAPTER 961

An act to amend Section 205.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000), if the veteran, because of injury incurred in military service, is blind in both eyes, has lost the use of two or more limbs, or is totally disabled.

(b) For purposes of this section, "veteran" is defined as specified

in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means

that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 2. The Controller shall report to the Legislature on the amount of the claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the exemption of property by Section 1 of this act. Such report shall be made on or before the first day of October next following the operative date of this act, in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 962

An act to amend Sections 2101.6 and 2192 of, and to add Sections 2192.1 and 2193.4 to, the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 2101.6 of the Business and Professions Code is amended to read:

2101.6. In order to insure the continuing competence of physicians and surgeons certificate holders under this chapter, the Division of Licensing shall by January 1, 1977, adopt and administer standards for continuing education of such certificate holders. The division shall require certificate holders to demonstrate satisfaction of the continuing education requirements at intervals of not less than four nor more than six years. In determining its requirement, the board shall consider including a course of nutrition and of human sexuality as defined in Section 2192.3, to be taken by persons in those forms of practice, general or special, where there is any likelihood, to be determined by the Division of Licensing, of related questions being asked of them.

SEC. 2. Section 2192 of the Business and Professions Code is amended to read:

2192. Each applicant shall show by evidence satisfactory to the board that he has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the board, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the board, and total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
  Embryology
  Histology
  Neuroanatomy
Physiology
Psychobiology
Medicine
  Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology
  and immunology
Pharmacology
Preventive medicine
  Hygiene and sanitation
Surgery, including
  orthopedic surgery
  Urology
  Ophthalmology
  Radiology
  Anesthesia
  Otolaryngology
  Obstetrics and
  gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Embryology
Anatomy
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including orthopedic surgery
Urology
Ophthalmology
Pharmacology
Preventive medicine, including nutrition
Radiology, including radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Anesthesia
Otolaryngology
Obstetrics and gynecology
Human sexuality as defined in Section 2192.3

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the board that he has completed a year's service satisfactory to the board in a hospital approved by the board for first-year postgraduate studies. At the discretion of the board the written examination provided for in Section 2288 may be taken following completion of his medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the board that a degree has been issued to him by the school.

SEC. 2.5. Section 2192 of the Business and Professions Code is amended to read:

2192. Each applicant shall show by evidence satisfactory to the board that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the board, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the board, and total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Psychobiology
Medicine
Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology and immunology
Pharmacology

Preventive medicine
Hygiene and sanitation
Surgery, including orthopedic surgery
Urology
Ophthalmology
Radiology
Anesthesia
Otolaryngology
Obstetrics and gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including orthopedic surgery
Urology
Ophthalmology
Pharmacology
Preventive medicine, including nutrition
Radiology, including radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Anesthesia
Otolaryngology
Obstetrics and gynecology
Human sexuality as defined in Section 2192.3
Child abuse detection and treatment

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the board that he or she has completed a year's service satisfactory to the board in a hospital approved by the board for first-year postgraduate studies. At the discretion of the board the written examination provided for in Section 2288 may be taken following completion of his or her medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the board that a degree has been issued to him or her by the school. The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1979.

SEC. 3. Section 2192.1 is added to the Business and Professions Code, to read:

2192.1. Notwithstanding Section 2192, any applicant whose application is based upon graduation from a school located outside of California need not show that he or she has received adequate instruction in nutrition in order to be eligible for licensure.

SEC. 4. Section 2193.4 is added to the Business and Professions Code, to read:

2193.4. It is the intent of the Legislature that the Division of

Licensing strongly urge those organizations responsible for the development of physician licensing examinations to include within those examinations an increased emphasis on human nutrition, and that the division report back to the Legislature on or before January 1, 1979, concerning the response of such organization to this request.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 1596 are both chaptered and become effective January 1, 1978, both bills amend Section 2192 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 1596, that the amendments to Section 2192 proposed by both bills be given effect and incorporated in Section 2192 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 1596 are both chaptered and become effective January 1, 1978, both amend Section 2192, and this bill is chaptered after Assembly Bill No. 1596, in which case Section 2 of this act shall not become operative.

CHAPTER 963

An act to amend Section 667 of the Public Resources Code, relating to the State Mining and Geology Board, and making an appropriation therefor.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 667 of the Public Resources Code is amended to read:

667. Each member of the board shall receive one hundred dollars ($100) for each day during which the member is engaged in the performance of official duties. The compensation of each member, except the compensation of the chairman, shall not, however, exceed in any one fiscal year the sum of four thousand dollars ($4,000). The chairman of the board may receive compensation of not to exceed five thousand dollars ($5,000) in any one fiscal year for the performance of official duties. In addition to such compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

SEC. 2. The sum of ten thousand dollars ($10,000) is hereby appropriated from the General Fund to the Department of Conservation for expenditure in the 1977–78 fiscal year for the purposes of Section 667 of the Public Resources Code.

CHAPTER 964

An act to amend Section 13500 of the Penal Code, relating to the Commission on Peace Officer Standards and Training.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 13500 of the Penal Code is amended to read:

13500. There is in the Department of Justice a Commission on Peace Officer Standards and Training, hereafter referred to in this chapter as the commission. The commission consists of 11 members appointed by the Governor, after consultation with, and with the advice of, the Attorney General and with the advice and consent of the Senate.

The commission shall be composed of the following members:

(1) Two members shall be (i) sheriffs or chiefs of police or peace officers nominated by their respective sheriffs or chiefs of police, (ii) peace officers who are deputy sheriffs or city policemen, or (iii) any combination thereof.

(2) Three members shall be sheriffs or chiefs of police or peace officers nominated by their respective sheriffs or chiefs of police.

(3) One member shall be a peace officer of the rank of sergeant or below with a minimum of five years' experience as a deputy sheriff or city policeman.

(4) One member shall be an elected officer or chief administrative officer of a county in this state.

(5) One member shall be an elected officer or chief administrative officer of a city in this state.

(6) Two members shall be public members who shall not be peace officers.

(7) One member shall be an educator or trainer in the field of criminal justice.

The Attorney General shall be an ex officio member of the commission.

Of the members first appointed by the Governor, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor.

The additional member provided for by the Legislature in its 1973-1974 Regular Session shall be appointed by the Governor on or before January 15, 1975, and shall serve for a term of three years.

The additional member provided for by the Legislature in its 1977–78 Regular Session shall be appointed by the Governor on or after July 1, 1978, and shall serve for a term of three years.

CHAPTER 965

An act to amend Sections 35291, 48909, 48914, and 48915 of, to amend and renumber Section 48904 of, to add Sections 48900, 48900.2, 48901, 48903, 48903.5, 48903.6, 48904, 48904.5, and 48905 to, and to repeal Sections 48900, 48901, 48902, 48903, 48903.5, 48905, 48906, 48907, 48910, 48911, and 48912 of, the Education Code, relating to school discipline, and making an appropriation therefor.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 35291 of the Education Code is amended to read:

35291. The governing board of any school district shall prescribe rules not inconsistent with law or with the rules prescribed by the State Board of Education, for the government and discipline of the schools under its jurisdiction. The governing board of each school district which maintains any of grades 1 through 12, inclusive, shall, at the time and in the manner prescribed by Sections 48980 and 48981, notify the parent or guardian of all pupils registered in schools of the district of the availability of rules of the district pertaining to student discipline.

The principal of each school shall take steps to insure that all rules pertaining to the discipline of pupils are communicated to continuing students at the beginning of each school year, and to transfer students at the time of their enrollment in the school.

SEC. 2. Section 48900 of the Education Code is repealed.

SEC. 3. Section 48900 is added to the Education Code, to read:

48900. A pupil shall not be suspended from school unless the principal determines that the pupil, while on school grounds or during an activity off school grounds related to school attendance, has:

(a) Caused or attempted to cause damage to school property or stolen or attempted to steal school property; or

(b) Caused or attempted to cause damage to private property or stolen or attempted to steal private property; or

(c) Caused, attempted to cause, or threatened to cause physical injury to another person except in self-defense; or

(d) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object of no reasonable use to the pupil at school, or at a school activity off school grounds, as the case may be; or

(e) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance, as defined in Section 11007 of the Health and Safety Code, alcoholic beverage, or intoxicant of any kind; or

(f) Possessed or used tobacco on school premises, except as provided in Section 48903.6; or

(g) Committed an obscene act or engaged in habitual profanity or vulgarity; or

(h) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, or administrators.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from assigned school activities. As used in this article, "suspension" means exclusion of a pupil from regular classroom instruction for adjustment purposes.

SEC. 4. Section 48900.2 is added to the Education Code, to read:

48900.2. Suspension shall be imposed only when other means of correction fail to bring about proper conduct, provided that a pupil may be suspended for any of the reasons enumerated in Section 48900 upon a first offense if the principal determines that the pupil's presence causes a danger to persons or property or is a threat to disrupting the instructional process.

SEC. 5. Section 48901 of the Education Code is repealed.

SEC. 6. Section 48901 is added to the Education Code, to read:

48901. (a) A teacher may suspend any pupil from his or her class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal for appropriate action. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor or a school psychologist shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal for consideration of a suspension from the school.

SEC. 7. Section 48902 of the Education Code is repealed.

SEC. 8. Section 48903 of the Education Code is repealed.

SEC. 9. Section 48903 is added to the Education Code, to read:

48903. (a) The principal of the school may suspend a pupil from the school for any of the reasons enumerated in Section 48900 for no more than five consecutive schooldays.

(b) Suspension by the principal shall be preceded by an informal conference between the pupil, the principal or the principal's designee, and, whenever practicable, the teacher or supervisor who referred the pupil to the principal. At the conference the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal may suspend a pupil without affording the pupil an opportunity for a conference only if the principal determines that an emergency situation exists. The term "emergency situation" as used in this article, means a situation determined by the principal to constitute a clear and present danger to the lives, safety or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, a conference pursuant to subdivision (b) shall be held as soon as practicable, but not later than 72 hours from the time the suspension is ordered.

(d) Within 24 hours of the beginning of a suspension, the principal shall mail a notice to the parent or guardian of the suspended pupil. The notice shall be, insofar as is practicable, in the primary language of the pupil's parent or guardian. The notice shall contain each of the following:

(1) A statement of the facts leading to the principal's decision to suspend.

(2) The date and time when the pupil will be allowed to return to school.

(3) A statement of the right of the pupil or parent to request a meeting with the superintendent or the superintendent's designee pursuant to Section 48904.

(4) A statement of the parent's or the pupil's right to have access to the pupil's records as provided by Section 49069.

(5) A request that the parent or guardian attend a conference with school officials regarding the pupil's behavior, including notice that state law requires parents or guardians to respond to such request without delay.

(e) Within 24 hours of the beginning of a suspension, the principal or the principal's designee shall make a reasonable effort to contact the parent or guardian of the pupil in person or by telephone to communicate directly the information contained in the written notice. The principal shall report the suspension of such pupil, including the cause therefor, to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

(f) Parents or guardians of any pupil shall respond without delay to any request from school officials to attend a conference regarding their child's behavior while on school grounds or during an activity off school grounds related to school attendance.

No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at such conference.

(g) No pupil shall be suspended from school for more than 20 schooldays in one school year, provided that, if a pupil for adjustment purposes is transferred to, or enrolled in, another regular school, an opportunity class in his school of residence, an opportunity school or class, or a continuation education school or class, days of suspension following such reassignment are limited to 10.

(h) In a case where expulsion is being processed by the governing board, the school district superintendent or other person designated by him in writing may extend the suspension until such time as the governing board has rendered a decision in the action pursuant to Section 48914; provided, that the superintendent has determined that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process.

SEC. 10. Section 48903.5 of the Education Code is repealed.

SEC. 11. Section 48903.5 is added to the Education Code, to read:

48903.5. A suspended pupil shall be allowed to complete all assignments and tests missed during the suspension which can be reasonably provided and, upon satisfactory completion, shall be given full credit therefor.

SEC. 12. Section 48903.6 is added to the Education Code, to read:

48903.6. (a) The governing board of any school district maintaining a high school may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a high school or while under the authority of school personnel by pupils of the high school, provided that such rules and regulations shall not permit pupils to smoke in any classroom or other enclosed facility which any student is required to occupy or which is customarily occupied by nonsmoking students.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

SEC. 13. Section 48904 of the Education Code is amended and renumbered to read:

48922. Every sheriff or chief of police who arrests a minor of compulsory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, when a petition is requested in juvenile court or a complaint filed in any court alleging that such minor is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, shall within 48 hours provide written notice to the superintendent of the school district of attendance and to the pupil's parent or guardian.

SEC. 14. Section 48904 is added to the Education Code, to read:

48904. (a) If suspension is ordered by a principal pursuant to Section 48903, the pupil or pupil's parent or guardian shall have the right to request a meeting with the superintendent or the superintendent's designee. The meeting shall be held within three schooldays of the time such request is received by the superintendent or the superintendent's designee.

(b) The superintendent or the superintendent's designee shall

determine if there was sufficient evidence to find that the alleged violation occurred and whether the penalty imposed was appropriate for the violation.

(c) The pupil may designate a representative to be present with him or her at the meeting. Such representative shall not act as legal counsel for the pupil, unless legal counsel is present to represent the school district.

At the meeting:

(1) The superintendent or the superintendent's designee shall review all written documents in the case.

(2) The pupil and the pupil's parent, guardian and representative may address the superintendent or the superintendent's designee on the evidence and the appropriateness of the penalty.

(d) The superintendent or the superintendent's designee shall render a decision within two schooldays. If the superintendent or the superintendent's designee determines that no violation occurred, all records and documentation regarding the disciplinary proceedings and suspension shall be immediately destroyed, and no information regarding the meeting shall be placed in the pupil's permanent record or file or communicated to any person not directly involved in the disciplinary proceedings. If the superintendent or the superintendent's designee determines that the penalty imposed was inappropriate for the violation, all records and documentation concerning the suspension shall be revised to indicate only the facts leading to the penalty imposed by the superintendent or the superintendent's designee.

SEC. 15. Section 48904.5 is added to the Education Code, to read:

48904.5. (a) The principal may recommend a pupil's expulsion, which shall be defined as suspension from regular classroom instruction for a period exceeding five schooldays or involuntary transfer to a continuation school, for any of the acts enumerated in Section 48900.

(b) Upon recommendation by the principal or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48914, the governing board may order a pupil expelled upon finding that the pupil violated Section 48900 and that other means of correction have repeatedly failed to bring about proper conduct, or due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others, and that other means of correction are not feasible.

SEC. 16. Section 48905 of the Education Code is repealed.

SEC. 17. Section 48905 is added to the Education Code, to read:

48905. No expulsion or involuntary transfer to a continuation school shall extend beyond the end of the semester following the semester during which the acts leading directly to the expulsion or transfer occurred unless the local governing board adopts a procedure for yearly appeal of the expulsion or involuntary transfer, conducted pursuant to Section 48914 at the request of the pupil or the pupil's parent or guardian. A description of such procedure shall

be made available to the pupil and parent or guardian at the time the expulsion or involuntary transfer is ordered.

SEC. 18. Section 48906 of the Education Code is repealed.

SEC. 19. Section 48907 of the Education Code is repealed.

SEC. 20. Section 48909 of the Education Code is amended to read:

48909. The parent or guardian of any minor whose willful misconduct results in injury or death to any student or any person employed by or performing volunteer services for a school district or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district shall be liable for all such damages so caused by the minor. The liability of the parent or guardian shall not exceed two thousand dollars ($2,000). The parent or guardian shall also be liable for the amount of any reward not exceeding two thousand dollars ($2,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district for all property belonging to the school district loaned to the minor and not returned upon demand of an employee of the district authorized to make the demand.

SEC. 21. Section 48910 of the Education Code is repealed.

SEC. 22. Section 48911 of the Education Code is repealed.

SEC. 23. Section 48912 of the Education Code is repealed.

SEC. 24. Section 48914 of the Education Code is amended to read:

48914. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. Such procedures shall include, but are not necessarily limited to the following:

(a) The pupil and the pupil's parent or guardian shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 20 calendar days of the date expulsion is recommended pursuant to subdivision (a) of Section 48904.5, or within 25 calendar days of the date suspension is ordered for the offense, whichever is sooner, unless the pupil or the pupil's parent or guardian requests in writing that the hearing be postponed. Such request shall be made at least five days prior to the date of the hearing.

(b) Written notice of the hearing shall be forwarded to the pupil and the pupil's parent or guardian at least 10 days prior to the date of the hearing. Such notice shall include: the date and place of the hearing, a statement of the specific facts and charges upon which the proposed expulsion is based, a copy of all the rules of the district which pertain to discipline adopted pursuant to Section 35291, and the opportunity of the pupil or the pupil's parent or guardian to: appear in person or to employ and be represented by counsel, inspect and obtain copies of all documents to be used at the hearing, confront and question all witnesses who testify at the hearing, question all other evidence presented, and present oral and

documentary evidence on the pupil's behalf, including witnesses.

(c) Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil or the pupil's parents or guardian request that the hearing be a public meeting. If such request is made of the governing board, the meeting shall be public.

(d) In lieu of conducting an expulsion hearing itself, the governing board of any school district may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing at Section 27720), Part 3, Division 2, Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct such hearing, or the governing board may appoint an impartial administrative panel of three or more certificated employees of the district, none of whom shall be on the staff of the school in which the pupil is enrolled. In lieu of the appointment of district employees exclusively, the district may request the services of one or more certificated persons not employed by the district. Such hearing shall not be conducted in conflict with any procedures established in this section. Such hearing shall be completed within five calendar days of the date on which the hearing was commenced. Within three calendar days following such hearing, the hearing officer or administrative panel shall determine whether to recommend expulsion to the board. If the decision is for a rejection of expulsion, the expulsion proceedings shall be terminated and the pupil shall be immediately reinstated and allowed to return to classroom instruction upon which such pupil had been in attendance prior to the suspension or to any other instructional program by mutual agreement among the principal and parent or guardian and pupil. The hearing officer or administrative panel shall notify the board of the decision and the governing board shall accept the recommendation for a rejection of expulsion. The governing board may, however, require the hearing officer or administrative panel to prepare and submit findings of fact to support rejection of expulsion. If the hearing officer or administrative panel recommends expulsion, findings of fact in support of such recommendation shall be prepared and submitted to the board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, such acceptance shall be based upon either a review of the hearing record or upon results of such supplementary hearing conducted pursuant to this section as the governing board may order.

(e) A record of the hearing shall be made. Such record, may be maintained by any means, including electronic recording, so long as a reasonably accurate written transcription of the proceedings can be made.

(f) Technical rules of evidence shall not apply to such hearing, but

evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel must be supported by a preponderance of the evidence.

(g) Whether a pupil expulsion hearing is conducted in closed or public session, by the governing board or before a hearing officer or administrative panel, a final action to expel shall be taken by the governing board at a public meeting. Written notice of any decision to expel shall be sent to the pupil or parent or guardian and shall be accompanied by notice of the right to appeal such expulsion to the county board of education.

A decision of the governing board whether to expel a pupil shall be made within 35 calendar days of the date expulsion is recommended by a principal pursuant to subdivision (a) of Section 48904.5 or within 40 calendar days of the date suspension is ordered for the offense, whichever is sooner, unless the pupil or the pupil's parent or guardian requests in writing that such decision be postponed.

The governing board shall maintain a record of each expulsion, including the cause therefor.

SEC. 25. Section 48915 of the Education Code is amended to read:

48915. If a pupil is expelled from school, the pupil or the parent or guardian of the pupil may appeal, within 30 days following the decision to expel by the governing board, to the county board of education which shall hold a hearing thereon and render its decision. The county board shall hold the hearing within 20 calendar days of the request and shall render a decision within three calendar days of the hearing.

The county board of education shall establish rules and regulations governing procedures for expulsion appeals pursuant to this section and not in conflict with Sections 48917 through 48920, including, but not limited to, notice of filing such appeal, setting the hearing date, certification to the county board of the record of the proceedings at the district level, hearing procedures, and preservation of a record of the hearing.

SEC. 26. There is hereby appropriated from the General Fund to the State Controller the sum of thirty thousand eight hundred forty-five dollars ($30,845) for the fiscal year 1977–78, and sixty-one thousand six hundred ninety dollars ($61,690) for the fiscal year 1978–79 and fiscal years thereafter for allocation and disbursement to school districts to reimburse such districts for costs incurred in notifying parents of suspended and conducting meetings between parents of suspended pupils and the superintendent or the superintendent's designee.

SEC. 27. Except as provided in Section 26 and notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no additional reimbursement pursuant to that section nor shall there be

an additional appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 966

An act to add Chapter 3.1 (commencing with Section 44670) to Part 25 of Division 3 of Title 2 of the Education Code, relating to school staff development.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Chapter 3.1 (commencing with Section 44670) is added to Part 25 of Division 3 of Title 2 of the Education Code, to read:

CHAPTER 3.1. SCHOOL PERSONNEL STAFF DEVELOPMENT AND RESOURCE CENTERS

Article 1. Local Staff Development Programs

44670. The Legislature finds that effective, ongoing staff development is necessary for continued vitality of the public school system. Staff development can lead to improved teacher-student relationships, reduced dropout rates and improved student performance. The Legislature finds that such development activities are most effective when designed by local school staffs to meet their particular needs.

Each community shapes the values, interests and aspirations of its children. Preservice training, particularly in times of limited staff turnover, cannot prepare teachers and other school staff to meet the diverse and changing needs of pupils they serve. Effective staff development must therefore be available to existing school staffs.

The Legislature finds widespread dissatisfaction with the current system of in-service training. Teachers, parents and administrators contend that many staff development programs do not relate training to local needs, utilize the energy and experience of classroom teachers, nor tap the resources available through colleges, industry and professional education associations.

44670.1. The Legislature recognizes the necessity for staff development which results in direct improvement of services to children. The Legislature, by the provisions of this article, intends to give all those who work with pupils ongoing opportunities to improve instructional, counseling and human development skills

through locally designed staff development programs.

44670.2. As used in this article:

(a) "School personnel" means all persons who work directly and on a regular basis with pupils, including teachers, administrators, pupil services employees as defined in subdivision (e) of Section 33150, paraprofessionals and volunteers.

44670.3. Staff development programs authorized by this article shall assist personnel at the local school site to:

(a) Improve instructional, human development and counseling skills based on a systematic assessment of pupil and personnel needs at that school.

(b) Ensure that curricula and instructional materials are keyed to the educational needs of each pupil, with particular emphasis on pupils who have not achieved proficiency in basic reading, writing and computational skills, limited and non-English-speaking pupils, disadvantaged pupils, and pupils with exceptional abilities or needs.

(c) Develop curricula and instructional materials in a wide variety of areas such as arts and humanities, physical, natural, and social sciences, physical and mental health, and career education.

(d) Improve the school and classroom environments, including relationships between and among pupils, school personnel and community members, including parents.

44670.4. Local staff development programs shall be designed by certificated personnel, including the school principal, consistent with rules and regulations adopted by the school district governing board and with school improvement objectives established annually through a process which involves teachers and other school personnel, the principal, parents and other community members; and in secondary school, students. Such improvement objectives shall address, but need not be limited to, the general objectives specified in Section 44670.3.

44670.5. Existing school level staff development programs required by state and federal laws shall be consolidated with local staff development programs established pursuant to this article to the extent permitted by federal law. Local staff development programs shall:

(a) Provide opportunities for all school personnel to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs. Such identification shall address, but need not be limited to, the general objectives specified in Section 44670.3.

(b) Be designed and implemented under the direction of classroom teachers and other participating school personnel, including the school principal, in consultation with resource centers established pursuant to Article 2 of this chapter as necessary. Classroom teachers selected by teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel to be established pursuant to this article.

(c) Allow for diversity in development activities, including but not

limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools.

(d) Be conducted during time which is set aside for such purpose throughout the school year, including, but not limited to, time on a continuing basis when participating school personnel are released from their regular duties.

(e) Be evaluated and modified on a continuing basis by participating school personnel with the aid of outside personnel as necessary.

(f) Include the school principal and other administrative personnel as active participants in one or more staff development activities implemented pursuant to this article.

44670.6. Schools may request, as part of their staff development program application, the provision of time during the regular school year to conduct local staff development programs and shall receive full average daily attendance reimbursement under the provisions of Section 46300. Such time shall not exceed eight days each year for each participating staff member.

44670.7. Any school district governing board, upon petition by the principal and a majority of the certificated personnel designated to design local staff development programs at a school with an approved staff development application, may request the State Board of Education to grant a waiver of any provision of this code (except Article 3 (commencing with Section 44930) of Chapter 4 of Part 25 of Division 3 of this title and Part 26 (commencing with Section 46000) of this division); or Title 5 of the California Administrative Code (except Title 5 regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25 of Division 3 of this title) if such a waiver is necessary or beneficial to the successful implementation of a local staff development program. The State Board of Education may grant any such request when the facts indicate the failure to do so would hinder the implementation or maintenance of such program. Such action shall be taken not later than the second regular meeting of the State Board of Education following receipt of a waiver request or the request for a waiver shall be deemed approved. In the event the request for a waiver is denied, the reasons for the denial shall be communicated without delay to the applicant school district and school. Such waiver shall apply only to the applicant school or schools.

44670.8. The State Board of Education shall include in its annual report to the Governor and Legislature regarding the nature and disposition of waivers requested pursuant to this article.

44670.9. The certificated personnel of any school or a school site council which meets the requirements of Section 52012 may apply to the school district governing board for a grant to fund a local staff development program. Such application shall consist of a three-year staff development plan to meet school improvement objectives established pursuant to Section 44670.4. Staff development plans shall describe: (a) staff development objectives and steps necesssary to

achieve such objectives including intended outcomes; (b) a proposed budget; and (c) procedures for ongoing evaluation and modification of the staff development program.

Such application shall in addition include evidence, in the form of signatures of a majority of those persons participating pursuant to Section 44670, that proposed local staff development programs are consistent with school improvement objectives established pursuant to Section 44670.4.

Staff development plans required by this section shall be updated annually by school personnel including the school principal pursuant to Section 44670.5, consistent with improvement objectives established annually pursuant to Section 44670.4.

44671. Governing boards of participating school districts shall:

(a) Develop the capacity to assist schools, upon request, to plan, implement and evaluate local staff development programs. School districts may develop the capacity to assist schools in conjunction with other districts, the county superintendent of schools, or a resource center established pursuant to Article 2 (commencing with Section 44680). Such capacity shall be documented in a district master plan keyed to the staff development programs of participating schools, and submitted to the Superintendent of Public Instruction for approval;

(b) Establish a districtwide plan for the phase-in of all schools which choose to establish local staff development programs;

(c) Ensure reasonable opportunities for representatives of each applicant school to meet with the governing board or its designated representatives to discuss the local staff development program application;

(d) Approve or disapprove local staff development program applications consistent with, but not limited to, regulations adopted by the State Board of Education. In the event any application is not approved, specific reasons for such action shall be communicated to the applicant school;

(e) Identify effective practices regarding, but not limited to, the objectives described in Section 44670.3, and disseminate such information to all schools, provided such action does not duplicate the action of a resource center established pursuant to Article 2 of this chapter.

44671.1. The Superintendent of Public Instruction shall:

(a) Assist district and school personnel, upon request, to design, implement, and evaluate staff development programs authorized by this article.

(b) Insure that procedures utilized by governing boards to approve and evaluate local staff development programs are consistent with this chapter and with standards and criteria adopted by the State Board of Education.

(c) Review and approve district master plans developed and submitted in accordance with the provisions of this article and with standards and criteria adopted by the State Board of Education. In

the event any master plan is not approved by the superintendent, specific reasons for such action shall be communicated to the applicant district.

(d) Identify effective practices regarding, but not limited to, the objectives described in Section 44670.3, and disseminate such information to school districts and county superintendents of schools.

(e) Report annually to the State Board of Education, the Legislature and the Governor, as provided in subdivision (i) of Section 52035, regarding the effectiveness of programs established pursuant to this article.

44671.2. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this article which shall include standards and criteria for:

(a) The approval of local staff development program applications by school district governing boards. Such rules and regulations shall be limited to:

(1) The degree to which the objectives of local staff development programs conform to objectives specified in Section 44670.3;

(2) The extent to which a substantial percentage of school personnel at the school will participate in proposed staff development activities; and

(3) The adequacy of locally developed procedures to evaluate the effectiveness of staff development programs.

(b) The annual statewide evaluation of staff development programs implemented under this chapter as provided in subdivision (i) of Section 52035.

44671.3. The State Board of Education shall, to the extent possible, consolidate approval and evaluation of local staff development programs and school district master plans with existing application and evaluation requirements for state and federal categorical aid programs, in order to minimize additional paperwork requirements of local districts and schools.

44671.4. Federal and state funds appropriated or apportioned for the purposes of this article shall not be used to supplant funds currently expended by school districts for the purpose of administering or conducting staff development programs.

Priority in funding shall be given to those schools which submit high quality proposals to involve the largest percentage of personnel at the school or within participating departments in ongoing staff development activities. Lowest funding priority shall be given to programs designed for the primary purpose of granting a degree or a credential to participating staff.

No school shall receive funds under this chapter if such school receives funds under Chapter 1147 of the Statutes of 1972 or Chapter 6 (commencing with Section 52000) of Part 28 of Division 4.

Article 2. School Resource Centers

44680. As used in this article:

(a) "School personnel" means all persons who provide services to students, including teachers, administrative employees as defined in subdivision (d) of Section 33150, pupil services employees as defined in subdivision (e) of Section 33150, paraprofessionals and volunteers.

(b) "Center" means a resource center which assists school personnel to participate in staff development activities designed to improve their instructional, human development and counseling skills. Resource centers shall be designated as such by the State Board of Education upon approval of an application of one or more school districts or county superintendents of schools to establish a center.

44680.1. Any school district or county superintendent of schools which has established a resource center policy board as provided in Section 44680.4 may apply to establish one or more resource centers or may enter into an agreement with one or more school districts or county superintendents of schools for the purpose of applying to establish one or more centers.

44680.2. Each center shall:

(a) Assist schools, upon request, to plan, implement and evaluate local staff development programs established pursuant to Article 1 of this chapter and Section 52019 of Chapter 6 of Part 28.

(b) Provide staff development based on a systematic assessment of the unmet needs of pupils and personnel in participating school districts. Such assessment shall address, but need not be limited to:

(1) The capacity of personnel to respond to the educational needs of each pupil, including pupils who have not achieved proficiency in basic reading, writing or computation skills, limited and non-English-speaking pupils, disadvantaged pupils, and pupils with exceptional abilities or needs.

(2) School environment, including staff-pupil-community relations and the incidence among pupils of absenteeism, dropouts, suspension, expulsion, violence and vandalism.

(3) School level leadership, including skills required of school principals to assist school personnel and others to plan, implement and evaluate staff development programs described in Article 1 of this chapter and school improvement efforts described in Sections 52000 to 52049.5, inclusive. School site administrators shall comprise the majority of any group designated to design programs for site administrators pursuant to this section.

(4) District and county leadership, including skills required of central district and county personnel to assist schools to plan, implement and evaluate staff development programs described in Article 1 and school improvement efforts described in Sections 52000 to 52049.5, inclusive.

Staff development programs provided by the center shall not supplant equivalent programs conducted by schools, school districts, county superintendents of schools, and colleges or universities

located in the area served by the center.

(c) Serve as a liaison between school personnel and local agencies, county superintendents of schools, colleges, universities, groups and individuals providing staff development activities based on the assessed needs of the pupils served by such personnel.

44680.3. As indicated by local needs, the center may:

(a) Train teachers and other school personnel as staff development leaders.

(b) Disseminate information regarding staff development methods and models to schools, districts and county superintendents of schools located in the area served by the center.

44680.4. Each center shall be operated by a resource center policy board established pursuant to Public Law 94-482 of 1976. The membership of the board shall include:

(a) Classroom teachers selected by teachers. Teacher representatives shall reflect the makeup of elementary and secondary teachers to be served by such center.

(b) Persons designated by the governing boards of school districts served by such center, including at least one parent of an elementary or secondary pupil and at least one school principal.

(c) At least one representative of institutions of higher education maintaining a department of education and located in or adjacent to the area served by the center selected by such institutions. In the event that more than one such representative is selected, the additional representative or representatives shall not represent the same segment of postsecondary education.

Membership of a resource center policy board shall not exceed 13 persons. Teacher representatives shall compose the majority of the board, pursuant to federal law.

44680.5. Each resource center policy board shall meet at least once every two months and, pursuant to guidelines established by the governing board or boards under which the Resource Center Policy Board operates, shall:

(a) Determine center personnel, fiscal and program policies.

(b) Approve the employment of all center personnel.

(c) Approve the expenditure of state and federal funds appropriated pursuant to this article.

Any actions taken by the resource center policy board shall be subject to all limitations imposed by law upon the school district governing board, and when ratified by the governing board, shall be deemed to constitute action of the governing board.

44680.6. The Superintendent of Public Instruction shall:

(a) Review and approve applications to establish resource centers in accordance with standards and criteria adopted by the State Board of Education.

(b) Assist school district personnel and resource center policy boards and staff, upon request, to design, implement and evaluate staff development programs authorized by this article.

(c) Coordinate the efforts of, and facilitate communication among,

centers established pursuant to this article.

(d) Report annually to the State Board of Education, the Legislature and the Governor as provided in subdivision (i) of Section 52035 regarding the effectiveness of programs established pursuant to this act.

44680.9. The State Board of Education shall adopt rules and regulations necessary to implement the provisions of this article. The board shall ensure that resource centers are distributed throughout the state so that school personnel located in rural, urban and suburban school districts may avail themselves of center services. The board shall rank and approve applications to establish centers using the following criteria:

(a) The extent to which staff development programs proposed by centers are designed to systematically improve the instructional, human development and counseling skills of school personnel pursuant to school level improvement objectives and a systematic assessment of the educational needs of pupils served by such personnel.

(b) The extent to which participating districts, county superintendents of schools, colleges and universities intend to integrate existing preservice and in-service planning and resources with the staff development programs authorized by this article and to increase financial support for staff development programs.

(c) The extent to which participating school districts will provide release time on a continuing basis throughout the school year for participating school personnel to participate in staff development programs conducted pursuant to Article 1 of this chapter.

(d) The adequacy of proposed evaluations designed to provide ongoing program review and modification, including intended outcomes.

Applications to establish centers shall include a description of policy board membership and selection procedures.

The State Board of Education shall give highest priority to districts which submit high quality proposals to involve the largest percentage of school personnel at participating schools in staff development programs conducted pursuant to Article 1 of this chapter.

44680.91. Federal and state funds appropriated or apportioned for the purposes of Article 1 or Article 2 of this chapter shall not be used to supplant funds currently expended by school districts, county superintendents of schools, and public institutions of higher education for the purpose of administering or conducting staff development programs.

No more than 4 percent of the funds appropriated for the purposes of Article 1 or Article 2 of this chapter shall be expended by districts or county superintendents to administer local staff development programs established pursuant to Article 1 (commencing with Section 44670) of this chapter.

No more than 10 percent of the funds appropriated for the purpose

of establishing resource centers shall be expended for capital outlay, including acquisition and improvement of fixed assets and purchase and replacement of equipment.

SEC. 2. From funds appropriated specifically therefor by the Legislature, the Superintendent of Public Instruction shall make allocations as follows:

(a) For the purposes of Article 1 (commencing with Section 44670) of Chapter 3.1 of Part 25 of the Education Code, four dollars ($4) per unit of average daily attendance at each school with an approved local staff development program application.

(b) For the purposes of Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code:

1978–79	No fewer than 5 resource centers
1979–80	No fewer than 7 resource centers
1980–81	No fewer than 9 resource centers
1981–82	No fewer than 10 resource centers
1982–83	No fewer than 12 resource centers

CHAPTER 967

An act to add Sections 81823 and 81824 to the Education Code, relating to community colleges.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 81823 is added to the Education Code, to read:

81823. (a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program, or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of:

(1) The justification and documentation for so doing, including

enrollment projections for individual campuses and centers; and

(2) The plan as thus submitted.

(d) The board of governors shall adopt rules and regulations to implement the provisions of subdivision (a) of this section.

SEC. 2. Section 81824 is added to the Education Code, to read:

81824. As used in Section 81823, an "educational center" is an off-campus location established and administered by an existing college or district which: (1) is scheduled to operate for three or more years; (2) is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operation; (3) has on-site administrative personnel; and (4) offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

CHAPTER 968

An act to amend Section 7170 of, to add Section 7153.9 to, and to repeal Section 7153.9 of, the Financial Code, relating to savings and loan associations.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. The Legislature finds and declares that there exists in the State of California a housing crisis that increasingly threatens to prevent a wide range of low- or middle-income persons from enjoying the benefits of home ownership, thereby adversely affecting the stability of the family and the democratic principle of widespread home ownership for all economic classes.

The Legislature further finds that one of the causes of the housing crisis is alleged to be the form of mortgage instrument presently in use by lenders providing for a fixed-rate and a fixed-term for a long-term maturity, which does not take into consideration the various needs and the financial capabilities of different classes of borrowers. The Legislature further finds that the initiation and development by experimentation of new and different types of mortgage payment instruments is necessary upon an experimental basis to determine which of such forms of mortgage instruments will aid in alleviating the housing crisis and in reducing the problems of borrowers of low- or middle-income in acquiring homes and in adjusting their payment schedules in conformity with their financial condition.

SEC. 2. Section 7153.9 is added to the Financial Code, to read:

7153.9. (a) Notwithstanding anything provided to the contrary in this division, the commissioner is empowered to prescribe such rules and regulations as will permit an association, upon the security

of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment instruments not authorized under the existing law, provided such instruments have prior approval of the commissioner, and the aggregate at any one time of the outstanding loans by an association evidenced by such mortgage payment instruments, does not exceed 10 percent of the association's assets.

(b) The rules and regulations of the commissioner shall be designed to permit limited experimentation to furnish valuable experience and information to the commissioner, the savings and loan industry, and to the public relating to the substance of any permanent regulations or laws which may be forthcoming and to permit savings and loan associations to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed four years from the date of the issuance of such regulations and shall place a high priority on the protection of the consumer and encouraging integration and home ownership for those persons who have previously been excluded from or failed to avail themselves of home ownership. Such regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, including, but not limited to, forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that such alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership. The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, among other things, of, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A report shall be submitted by the commissioner to the Legislature annually on the 15th day of February of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, low- and middle-income families, and elderly persons.

(d) This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 3. Section 7170 of the Financial Code is amended to read:

7170. (a) An association shall not make any loan other than an amortized loan unless at least 90 percent of the unpaid principal of all its loans then in force are amortized loans.

(b) Notwithstanding subdivision (a), an association may make unamortized loans in an amount equal to 20 percent of the unpaid principal of all of its loans then in effect provided that 10 percent of

such loans are made pursuant to Section 7153.9, and during such time as Section 7153.9 is in effect.

CHAPTER 969

An act to add Section 3714 to the Labor Code, relating to workers' compensation.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 3714 is added to the Labor Code, to read:

3714. Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall, either orally or in writing, notify every new employee, either at the time the employee is hired or by the end of his first pay period, of the employee's right to receive workers' compensation benefits should he be injured on the job at any time while in the employer's employ. The information required by this section shall be in addition to the requirements of Section 3713.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 970

An act to add Section 2506.7 to the Education Code, relating to county superintendents of schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 2506.7 is added to the Education Code, to read:

2506.7. Upon agreement between the county board of education and the county board of supervisors providing that the county shall be reimbursed for county counsel educational services as evidenced by resolution adopted by each board, the maximum allowable tax

rate available to a fiscally independent county superintendent of schools shall be increased by the rate at which the county levied and collected a tax sufficient to pay for the expenditures of the county counsel's office in providing legal services to the county board of education, the county committee on school district organization, and the county superintendent of schools, and school districts under his jurisdiction, during the fiscal year preceding the effective date of the agreement; and the maximum general purpose tax rate of the county shall be reduced by the same amount in the fiscal year in which such tax rate is increased.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to adjust properly the tax rates of counties and county superintendents of schools in counties in which a county superintendent of schools is fiscally independent and must pay for certain legal service of the county counsel, and to permit such adjustments to be operative for the entire 1977–78 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 971

An act to add Sections 1950.5 and 1950.7 to, and to repeal Section 1950.5 of, the Civil Code, relating to landlord and tenant.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 1950.5 of the Civil Code is repealed.

SEC. 2. Section 1950.5 is added to the Civil Code, to read:

1950.5. (a) The provisions of this section shall apply to security for a rental agreement for residential property, that is, property used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises caused by the tenant.

(3) The cleaning of the premises upon termination of the tenancy.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent in the case of furnished

residential property, in addition to any rent for the first month paid on or before initial occupancy. This subdivision shall not be construed to prohibit an advance payment of not less than six months' rent where the term of the lease is six months or longer.

This subdivision shall not be construed to preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, such alterations being other than that cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to such lease or agreement. The claim of a tenant to such security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only such amounts as are reasonably necessary to remedy tenant defaults in the payment of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, or to clean such premises, if necessary, upon termination of the tenancy. No later than two weeks after the tenant has vacated the premises, the landlord shall furnish the tenant with an itemized written statement of the basis for, and the amount of, any security received and the disposition of such security and shall return any remaining portion of such security to the tenant.

(f) Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent shall, within a reasonable time, do one of the following acts, either of which shall relieve him of further liability with respect to such security held:

(1) Transfer the portion of such security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest, and thereafter notify the tenant by personal delivery or certified mail of such transfer, of any claims made against the security, and of the transferee's name, address, and telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of such notice and sign his name on the landlord's copy of such notice.

(2) Return the portion of such security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (e).

(g) Upon receipt of any portion of such security under paragraph (1) of subdivision (f), the transferee shall have all of the rights and obligations of a landlord holding such security with respect to such security.

(h) The bad faith claim or retention by a landlord or transferee of a security or any portion thereof, in violation of this section, may subject the landlord or his transferee to damages not to exceed two hundred dollars ($200), in addition to any actual damages. In any action under this section, the landlord shall have the burden of proof

as to the reasonableness of the amounts claimed.

(i) No lease or rental agreement shall contain any provision characterizing any security as "nonrefundable."

(j) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or punitive or both, are within the jurisdictional amount allowed by Section 116.2 of the Code of Civil Procedure.

(k) To the extent that this section is a recodification of the provisions of Chapter 1317 of the Statutes of 1970, as amended by Chapter 618 of the Statutes of 1972, this section became operative on January 1, 1971, and shall apply only to payments or deposits made on or after such date.

The amendments made to the law, as effective on January 1, 1977, by the enactment of this section in the 1977–78 Legislative Session, exclusive of subdivision (e), shall be applicable to all tenancies, leases, or rental agreements for residential property created or renewed on or after January 1, 1978.

Subdivision (e) of this section shall be applicable to all tenancies, leases, or rental agreements for residential property terminated on or after January 1, 1978.

SEC. 3. Section 1950.7 is added to the Civil Code, to read:

1950.7. (a) Any payment or deposit of money the primary function of which is to secure the performance of a rental agreement for other than residential property or any part of such an agreement, other than a payment or deposit, including an advance payment of rent, made to secure the execution of a rental agreement, shall be governed by the provisions of this section. With respect to residential property, the provisions of Section 1950.5 shall prevail.

(b) Any such payment or deposit of money shall be held by the landlord for the tenant who is party to such agreement. The claim of a tenant to such payment or deposit shall be prior to the claim of any creditor of the landlord, except a trustee in bankruptcy.

(c) The landlord may claim of such payment or deposit only such amounts as are reasonably necessary to remedy tenant defaults in the payment of rent, to repair damages to the premises caused by the tenant, or to clean such premises upon termination of the tenancy, if the payment or deposit is made for any or all of those specific purposes. Any remaining portion of such payment or deposit shall be returned to the tenant no later than two weeks after termination of his tenancy.

(d) Upon termination of the landlord's interest in the unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent shall, within a reasonable time, do one of the following acts, either of which shall relieve him of further liability with respect to such payment or deposit:

(1) Transfer the portion of such payment or deposit remaining after any lawful deductions made under subdivision (c) to the landlord's successor in interest, and thereafter notify the tenant by

personal delivery or certified mail of such transfer, of any claims made against the payment or deposit, and of the transferee's name and address. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of such notice and sign his name on the landlord's copy of such notice.

(2) Return the portion of such payment or deposit remaining after any lawful deductions made under subdivision (c) to the tenant.

(e) Upon receipt of any portion of such payment or deposit under paragraph (1) of subdivision (d), the transferee shall have all of the rights and obligations of a landlord holding such payment or deposit with respect to such payment or deposit.

(f) The bad faith retention by a landlord or transferee of a payment or deposit or any portion thereof, in violation of this section, may subject the landlord or his transferee to damages not to exceed two hundred dollars ($200), in addition to any actual damages.

(g) This section is declarative of existing law and therefore operative as to all tenancies, leases, or rental agreements for other than residential property created or renewed on or after January 1, 1971.

CHAPTER 972

An act to add Article 9.5 (commencing with Section 11135) to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to discrimination.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Article 9.5 (commencing with Section 11135) is added to Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 9.5. Discrimination

11135. No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state.

11136. Whenever a state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state, has reasonable cause to believe that a contractor, grantee, or local agency has violated the provisions of

Section 11135, or any regulation adopted to implement such section, the head of the state agency shall notify the contractor, grantee, or local agency of such violation and shall, after considering all relevant evidence, determine whether there is probable cause to believe that a violation of the provisions of Section 11135, or any regulation adopted to implement such section, has occurred. In the event that it is determined that there is probable cause to believe that the provisions of Section 11135, or any regulation adopted to implement such section, have been violated, the head of the state agency shall cause to be instituted a hearing conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of this part to determine whether a violation has occurred.

11137. If it is determined that a contractor, grantee, or local agency has violated the provisions of this article, the state agency that administers the program or activity involved shall take action to curtail state funding in whole or in part to such contractor, grantee, or local agency.

11138. Each state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state and that enters into contracts for the performance of services to be provided to the public in an aggregate amount in excess of one hundred thousand dollars ($100,000) per year shall, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of this part, adopt such rules and regulations as are necessary to carry out the purpose and provisions of this article.

11139. The prohibitions and sanctions imposed by this article shall be in addition to any other prohibitions and sanctions imposed by law.

This article shall not be interpreted in such manner so as to frustrate its purpose.

This article shall not be interpreted in such a manner so as to adversely affect lawful programs which benefit the disabled, the aged, minorities and women.

11139.5. The Secretary of the Health and Welfare Agency, with the advice and concurrence of the Fair Employment Practices Commission, shall establish standards for determining which persons are protected by this article and guidelines for determining what practices are discriminatory. The secretary, with the cooperation of the Fair Employment Practices Commission, shall assist state agencies in coordinating their programs and activities and shall consult with such agencies, as necessary, so that consistent policies, practices, and procedures are adopted with respect to the enforcement of the provisions of the article.

CHAPTER 973

An act to amend Section 44896 of the Education Code, relating to school districts, and making an appropriation therefor.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 44896 of the Education Code is amended to read:

44896. Whenever a person employed in an administrative or supervisory position requiring certification qualifications is transferred to a teaching position, the governing board of the school district shall give such employee, when requested by him, a written statement of the reasons for such transfer. If the reasons include incompetency, an evaluation of the person pursuant to Article 11 (commencing with Section 44660) of Chapter 3 of this part shall have been completed not more than 60 days prior to the giving of the notice of the transfer.

SEC. 2. The sum of five hundred dollars ($500) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

CHAPTER 974

An act to add Section 35928 to the Food and Agricultural Code, relating to certified milk and certified milk products, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 35928 is added to the Food and Agricultural Code, to read:

35928. (a) When the director, any health officer acting as an agent of the director, or a milk inspection officer acting as an agent of the director having jurisdiction, determines that the oral ingestion by a human being of any raw milk or certified raw milk supply has caused disease in a human being, he shall prohibit the use, sale, or disposal of such milk, except by a method approved by the director, until such cause has been corrected or eliminated. Application may be made by the director or any such officer to the superior court of the county where the supply is produced or stored in order to obtain an

injunction prohibiting the use, sale, or disposal of such milk. If the court determines that it is a reasonable medical probability that the ingestion by a human being of such milk supply was the proximate cause of a case of disease in such human being and that the milk supply is unsafe for human consumption, the court shall take such action as is necessary to enforce the order. When the court thereafter determines that it is a reasonable medical probability that the ingestion by a human being of such milk supply will not be the proximate cause of a case of disease in a human being and that the milk supply is safe for human consumption, such order of prohibition shall be dissolved.

(b) When the director, any health officer acting as an agent of the director, or a milk inspection officer acting as an agent of the director having jurisdiction, has good cause to believe, as a result of either a laboratory test by a laboratory certified by the department or a recognized test, on the animal or the milk from the animal or the herd, that a case of typhoid fever, salmonella infection, bacillary dysentery, diphtheria, respiratory streptococcal infection, brucellosis, or tuberculosis, is present in one or more cows or in the milk of one or more cows of any dairy herd, he shall prohibit the use, sale, or disposal of the raw milk or certified raw milk from the herd containing the diseased cow or cows, except by a method approved by the director, until such cause has been corrected or eliminated. Application may be made by the director or any such officer to the superior court of the county where the milk supply is produced or stored in order to obtain an injunction prohibiting the use, sale, or disposal of such milk. If the court determines that it is a reasonable medical probability that such disease is present in the milk of one or more cows of any dairy herd and that the milk supply is unsafe for human consumption, the court shall take such action as is necessary to enforce the order. When the court thereafter determines that it is a reasonable medical probability that such disease is no longer present on the premises of such dairy and that the milk supply is safe for human consumption, such order of prohibition shall be dissolved.

(c) When the director, any health officer acting as an agent of the director, or a milk inspection officer acting as an agent of the director, has good cause to believe, as a result of a laboratory test by a laboratory certified by the department or a recognized test, on the animal or the milk, that a raw milk or certified raw milk supply under the control of the producer of such milk supply is suspected to be the source of an infection for a communicable disease, or that a raw milk or certified raw milk supply may cause an infection of a communicable disease, he shall prohibit the use, sale, or disposal of such milk, except by a method approved by the director, until such cause has been corrected or eliminated. However, in the case of such a milk supply being under the control of either a retailer or distributor to retailers, the director or his agent may only prohibit the use, sale, or disposal of such milk in a manner used for any other market milk or milk product.

(d) Actions taken pursuant to the provisions of subdivision (c) shall in each instance be subject to judicial review under Section 1085 of the Code of Civil Procedure by the superior court of the county with jurisdiction. Such review shall be conducted for the purpose of determining if the action taken shall be sustained or dissolved. At issue in the review shall be the questions of adequate protection of the public health and safety, and the guarantee of due process of law for the persons controlling, or producer of, the raw or certified raw milk supply affected by the action. The department shall have the burden of proof to sustain the actions of the director or his agents at issue in the review.

In the event the court, after such review, finds that the action by the director shall be dissolved, the department shall bear the actual court costs incurred by the persons controlling, or producers of, the raw or certified raw milk supply, and their actual testing costs for any animal or milk tests previously ordered by the department to determine if such milk supply, which is the subject of such court action, is the source of, or may cause, an infection for a communicable disease.

As used in this subdivision, "testing costs" means the actual cost of obtaining samples to be tested, the actual cost of laboratory tests, and the actual cost for extra labor to confine the cattle for the purpose of testing.

(e) In addition to any procedural requirements of Section 32731, any routine inspection conducted for the purpose of taking samples of milk or inspecting any cow pursuant to subdivision (b) or (c) shall be conducted only after the issuance of an inspection warrant as provided in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, unless such inspection is conducted with the knowledge of the persons controlling the milk supply or cow. In the taking of a sample of milk pursuant to subdivision (a), (b), or (c), a duplicate of any sample of raw milk or certified raw milk shall be left with the persons in control of, or producers of, such milk.

(f) The Legislature finds and declares that the state does not intend to limit or restrict the availability of certified raw milk and certified raw milk products to those persons desiring to consume such milk and such products, provided such milk and products meet standards of sanitation and wholesomeness at least equal to market milk that is grade A raw milk, as defined in Section 35891.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 3. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act provides for certain authorizations and safeguards governing the production of milk which are necessary for the benefit and protection of the public. To ensure that these benefits and protections have the greatest effect, the act must go into effect immediately.

CHAPTER 975

An act to add Section 31646 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 31646 is added to the Government Code, to read:

31646. A member who returns to active service following an uncompensated leave of absence on account of illness may receive service credit for the period of such absence upon the payment of the contributions that the member would have paid during such period, together with the interest that such contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in a lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. Credit may not be received for any period of such absence in excess of 12 consecutive months.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or a school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 976

An act to add Section 29410 to, and to repeal Sections 29410, 29411, and 29412 of, the Elections Code, relating to elections.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977.]

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

SECTION 1. The Legislature finds and declares:

(a) That a need exists for adequate identification of the source of campaign appeals directed at the voters in order to assist them in making rational decisions at the polls.

(b) That by requiring such identification of campaign literature, the public is better able to evaluate the source of campaign material, may be more adequately informed, and can better distinguish between truth and falsity.

(c) That by requiring identification, anonymous attacks, which cannot adequately be responded to in the heat of a campaign, will be discouraged.

(d) That by requiring identification, a candidate who believes he has been libeled may more readily seek redress in a civil action for damages.

(e) That limiting identification requirements to pejorative campaign material is inadequate because subtle attacks on candidates or measures can be framed which appear to be supportive but, in fact, are pejorative.

(f) That a distinction needs to be made between campaign materials of small size that usually carry little more than a "Vote for _____" message, such as is often the case with buttons, matchbooks, pens, and the like, on the one hand, and campaign materials which carry more complex messages, on the other. In the case of the former, because of their characteristically small size and limited content, it would be an undue burden to require that identification as to source be included.

SEC. 2. Section 29410 of the Elections Code is repealed.

SEC. 3. Section 29410 is added to the Elections Code, to read:

29410. (a) Every person, other than a public officer in the performance of an official duty, is guilty of a misdemeanor who causes to be prepared, reproduced by any means including, but not limited to, printing, photocopying, mimeographing, or silkscreening, posted, or distributed any circular, pamphlet, letter, poster, bill, or other reproduced matter having reference to an election, to any candidate, or to any measure unless there appears on the circular, pamphlet, letter, poster, bill, or other reproduced matter in no less than six-point type not subjected to the halftone process the name and address of the business or residence of a person responsible for it.

If the responsible person is acting on behalf of a campaign committee which has filed a statement of organization with the Secretary of State under the provisions of the Political Reform Act of 1974, as amended, the name and address to appear on the reproduced matter may be the name and address of the campaign committee.

(b) Any circular, pamphlet, letter, poster, bill, or other reproduced matter having reference to an election, candidate, or

measure, which contains no more information than the following items which appear on the ballot: the date of the election, the nature of the election (e.g., primary, general, special, runoff), the name of the jurisdiction (e.g., Alhambra City, Los Angeles Community College District), and, in the case of a candidate, the name of the candidate, the title of the office, including district number, if any, and in the case of a partisan office, the candidate's party designation, or, in the case of a measure, the title of the measure and its number or letter designation, and the use of the words "Yes on," "No on," "Vote for," "Elect," "Reelect," "Retain," "Return," "Recall," "Remove," and "Support" is exempted from the identification requirements of subdivision (a); provided, however, that a mass mailing as defined in Section 82041.5 of the Government Code shall comply with Section 84305 of the Government Code.

(c) Any circular, pamphlet, letter, poster, bill, or other reproduced matter referring only to candidates for federal office and subject to the requirements of Section 441d of Title 2 of the United States Code is exempt from the identification requirements of subdivision (a).

(d) A copy of this Elections Code section and Section 84305 of the Government Code shall be provided by the clerk to each candidate or his agent at the time of filing the declaration of candidacy and to the proponents of a local initiative or referendum at the time of filing the petitions. In the case of a statewide initiative or referendum, the Secretary of State shall provide a copy of this Elections Code section to the proponents of the measure within a reasonable time following receipt of the title and summary from the Attorney General as provided in Section 3503.

SEC. 4. Section 29411 of the Elections Code is repealed.

SEC. 5. Section 29412 of the Elections Code is repealed.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by that act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 977

An act to add Chapter 5 (commencing with Section 58501) to Part 1 of Division 21 of the Food and Agricultural Code, and to add Sections 17202.4 and 24343.7 to the Revenue and Taxation Code, relating to agricultural products.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Chapter 5 (commencing with Section 58501) is added to Part 1 of Division 21 of the Food and Agricultural Code, to read:

CHAPTER 5. DONATION OF FOOD

58501. For purposes of this chapter:

(a) "Agricultural product" means any fowl, animal, vegetable, or other stuff, product, or article which is customary food, or which is proper for food for human beings.

(b) "Nonprofit charitable organization" means any organization which was organized and is operating for charitable purposes and meets the requirements set forth in Section 214 of the Revenue and Taxation Code.

58502. Any person engaged in the business of processing, distributing, or selling any agricultural product may donate, free of charge, any such product which is in a condition that it may be used as food for human beings, to a nonprofit charitable organization within the state.

58503. To assist in accomplishing the purposes of Section 58502, the board of supervisors of any county may establish, and publicize the availability of, a surplus food collection and distribution system, consisting of an inventory of storage facilities and refrigeration equipment that are available in the county for such purposes and a 24-hour information and food collection center for receiving and transmitting information as to where agricultural products are available or what organization desires or needs donated agricultural products, and for collecting, receiving, handling, storing, and distributing donated agricultural products. Any nonprofit charitable organization regularly needing agricultural products in its operations may be listed with such center for the purpose of being notified whenever such products are available.

58504. The board of supervisors may provide for the inspection of such products by the county health officer, upon request of the donee, prior to delivery by the donor to determine whether such products may be used as food for human beings.

58505. Except for any injury resulting from gross negligence or willful act, no county or agency of a county established pursuant to this chapter and no person who donates any agricultural product shall be liable for any injury, including, but not limited to, injury resulting from the ingesting of such agricultural product, as a result of any act, or the omission of any act, in connection with donating any product pursuant to this chapter.

58506. Nothing in this chapter shall relieve any nonprofit charitable organization from any liability for any injury, including, but not limited to, injury resulting from the ingesting of such agricultural product, as a result of receiving, accepting, gathering, or removing any agricultural product donated under this chapter.

58507. (a) Any nonprofit charitable organization, that receives any agricultural product pursuant to this chapter, shall not sell or offer

to sell any such agricultural product nor move or transfer such product out of the state, provided that any product that does not comply with the requirements of Division 17 (commencing with Section 42501) which is received by a charitable organization situated in this state may be shipped out of the state by such organization in accordance with regulations of the director to assure compliance with the purposes of this chapter.

This subdivision does not apply to agricultural products which comply with all maturity, quality, size, standard pack, container and labeling requirements of Division 17 (commencing with Section 42501).

(b) No person and no employee of a public agency shall sell, offer for sale, use, or consume any agricultural product donated or distributed pursuant to this chapter, except the recipient of an agricultural product provided as charitable assistance by a nonprofit charitable organization who shall use or consume the agricultural product provided.

(c) Any violation of this section is punishable by a fine not exceeding one thousand dollars ($1,000).

58508. In operating an information and food collection center pursuant to this chapter, the board of supervisors shall provide for the screening of donees to assure that agricultural products which are distributed at public expense are not donated to organizations that are capable of purchasing them.

58509. This chapter shall remain in effect only until January 1, 1980, and as of that date is repealed, unless prior to that date a later enacted statute deletes or extends such date.

SEC. 2. Section 17202.4 is added to the Revenue and Taxation Code, to read:

17202.4. In addition to the deduction allowed for trade or business expenses and any other deductions allowed by this part, a taxpayer who donates agricultural products under Chapter 5 (commencing with Section 58501), Part 1, Division 21 of the Food and Agricultural Code shall be allowed as a deduction an amount equal to the cost of any such products.

This section shall remain in effect only until January 1, 1980, and as of that date is repealed, unless prior to that date a later enacted statute deletes or extends such date.

SEC. 3. Section 24343.7 is added to the Revenue and Taxation Code, to read:

24343.7. In addition to the deduction allowed for trade or business expenses and any other deductions allowed by this part, a taxpayer who donates agricultural products under Chapter 5 (commencing with Section 58501), Part 1, Division 21 of the Food and Agricultural Code shall be allowed as a deduction an amount equal to the cost of any such products.

This section shall remain in effect only until January 1, 1980, and as of that date is repealed, unless prior to that date a later enacted statute deletes or extends such date.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 978

An act relating to health education, and making an appropriation therefor.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. It is the intent of the Legislature in enacting this act to generate and encourage the development of programs for the prevention of genetic diseases, disorders, and birth defects, in grades seven through 12, and thereby to reduce the annual incidence of genetic diseases, disorders, and birth defects through preventive educational programs.

SEC. 2. The Department of Education shall prepare and distribute to school districts guidelines and plans for the preparation of programs for the prevention of genetic diseases, disorders, and birth defects, and in cooperation with county offices of education, shall assist school districts in developing plans and programs to provide future parents with practical information concerning, but not limited to, human development, nutrition, genetics, maternal and child health, and the effect of certain aspects of the environment on human development, and for this purpose shall assume the following functions and carry out the following duties out of funds appropriated for these purposes:

(a) Develop during the 1978–79 fiscal year model programs, instructional materials, curriculum and guidelines for junior and senior high schools for dissemination at selected training programs during the year.

(b) Conduct during the 1979–80 fiscal year at least 25 workshops and training programs for approximately 3,000 school districts teams of certificated school personnel and youth in the public high schools.

(c) Develop during the fiscal year 1980–81 additional materials and conduct workshops for training programs for an additional 3,000 certificated school personnel.

SEC. 3. This chapter shall be operative until June 30, 1981.

Funds for operation in the 1979–80 and 1980–81 fiscal years shall be requested in the Budget Bill.

SEC. 4. There is hereby appropriated from the General Fund in the State Treasury to the Department of Education, the sum of one hundred forty thousand dollars ($140,000) to be expended for the purposes of this act in the 1978–79 fiscal year.

CHAPTER 979

An act to add Section 34.10 to the Civil Code, relating to minors.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977]

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

SECTION 1. Section 34.10 is added to the Civil Code, to read:

34.10. (a) Notwithstanding any other provision of law, a minor 12 years of age or older may give consent to the furnishing of medical care and counseling relating to the diagnosis and treatment of a drug or alcohol related problem. Such consent shall not be subject to disaffirmance because of minority.

(b) The consent of the parent, parents, or legal guardian of a minor shall not be necessary to authorize hospital care, medical care, or counseling related to a drug or alcohol related problem, and, except as otherwise provided in subdivision (c), the parent, parents, or legal guardian of the minor shall not be liable for payment for any such care rendered to a minor pursuant to this section.

(c) The treatment plan of a minor authorized by this section shall include the involvement of the minor's parent, parents, or legal guardian, if appropriate, as determined by the professional person or treatment facility treating the minor. The professional person rendering medical treatment or counseling to a minor shall state in the minor's treatment record whether and when he or she attempted to contact the parent, parents, or legal guardian of the minor, and whether such attempt to contact the parent, parents, or legal guardian of the minor was successful or unsuccessful; or the reason why, in his or her opinion, it would not be appropriate to contact the parent, parents, or legal guardian of the minor.

Notwithstanding the provisions of subdivision (b), if the minor's parent, parents, or legal guardian participates in a counseling program pursuant to this section, such parent, parents, or legal guardian shall be liable for the cost of such services provided to the minor and the parent, parents, or legal guardian.

(d) As used in this section, "counseling" means the provision of counseling services by a provider under a contract with the state or a county to render alcohol or drug abuse counseling services pursuant to Part 2 (commencing with Section 5600) of Division 5 of, or Division 11 (commencing with Section 19900) of the Welfare and Institutions Code.

(e) As used in this section, "drug or alcohol" shall include, but shall not be limited to, any substance listed in Schedule D of Section 4160 of the Business and Professions Code, Division 10 (commencing with Section 11000) of the Health and Safety Code, or subdivision (f) of Section 647 of the Penal Code.

(f) As used in this section, "professional person" means a physician and surgeon, registered nurse, psychologist, clinical social worker, or marriage, family, and child counselor.

(g) The provisions of this section shall not be construed to authorize a minor to receive methadone treatment without the consent of his or her parent, parents, or legal guardian.

CHAPTER 980

An act to amend Sections 26670, 26678, 26679, and 26680 of, and to add Sections 26605 and 26624 to, the Health and Safety Code, relating to health.

[Became law without Governor's signature September 22, 1977.
Filed with Secretary of State September 22, 1977.]

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

SECTION 1. Section 26605 is added to the Health and Safety Code, to read:

26605. The department may establish performance standards for devices, which shall be designed to provide reasonable assurance of safe and effective performance and, where appropriate, requiring the use and prescribing the form and content of labeling for the proper installation, maintenance, operation, or use of the device. However, if a performance standard is established for a device pursuant to Section 514 of the federal act (21 U.S.C., Sec. 360d) or Section 521 of the federal act (21 U.S.C., Sec. 360k), it shall be the performance standard of this state for such device.

SEC. 2. Section 26624 is added to the Health and Safety Code, to read:

26624. Any device is adulterated which fails to meet the applicable performance standard, if any, as provided in Section 26605.

SEC. 3. Section 26670 of the Health and Safety Code is amended to read:

26670. No person shall sell, deliver, or give away any new drug or new device unless it satisfies either of the following:

(a) It is a new drug, and a new drug application has been approved for it and such approval has not been withdrawn, terminated, or suspended under Section 505 of the federal act (21 U.S.C., Sec. 355); or it is a new device for which a premarket approval application has been approved, and such approval has not been withdrawn,

terminated, or suspended under Section 515 of the federal act (21 U.S.C., Sec. 360e).

(b) The department has approved a new drug or device application setting forth all of the following information:

(1) Full reports of investigations which have been made to show whether or not such new drug or device is safe for use or whether such new drug or device is effective in use under the conditions prescribed, recommended, or suggested in the labeling or advertising of the new drug or device.

(2) A full list of the articles used as components of such new drug or device.

(3) A full statement of the composition of such new drug or device.

(4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new drug or in the case of a new device, a full statement of its composition, properties, and construction and the principles of its operation.

(5) Such samples of such new drug or device and of the articles used as components of the drug or device as the department may require.

(6) Specimens of the labeling and advertisements proposed to be used for such new drug or device.

SEC. 4. Section 26678 of the Health and Safety Code is amended to read:

26678. Section 26670 does not apply to a drug or device intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs or devices if the investigation is conducted in accordance with the requirements of Section 505(i) of the federal act (21 U.S.C., Sec. 355(i)) or Section 520(g) thereof (21 U.S.C., Secs. 352 and 360) and the regulations adopted pursuant to the federal act.

SEC. 5. Section 26679 of the Health and Safety Code is amended to read:

26679. Section 26670 does not apply to any drug or device intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs or devices if all the following conditions are complied with:

(a) The submission to the department, before any clinical testing of a drug or device is undertaken, of reports, by the manufacturer or the sponsor of the investigation of such drug or device, of preclinical tests including tests on animals, of such drug or device adequate to justify the proposed clinical testing.

(b) The manufacturer or the sponsor of the investigation of a drug or a device proposed to be distributed to investigators for clinical testing obtaining a signed, notarized agreement from each of such investigators that patients to whom the drug or device is administered will be under his personal supervision, or under the supervision of investigators responsible to him, and that he will not supply such drug or device to any other investigator, or to clinics, for administration to human beings.

(c) The establishment and maintenance of such records, and the making of such reports to the department, by the manufacturer or the sponsor of the investigation of such drug or device, of data, including but not limited to, analytical reports by investigators, obtained as a result of such investigational use of such drug or device, as the department finds will enable it to evaluate the safety and effectiveness of such drug or device in the event of the filing of an application pursuant to Section 26670.

(d) The manufacturer, or the sponsor of the investigation, require experts using such drugs or devices for investigational purposes to certify to such manufacturer or sponsor that they will comply with the requirements of Article 4 (commencing with Section 26668) of this chapter.

(e) Such other conditions as the department shall adopt as regulations necessary for the protection of the public health. The federal regulations adopted pursuant to Section 505(i) of the federal act (21 U.S.C., Sec. 355(i)) or Section 520(g) thereof (21 U.S.C., Secs. 352 and 360) shall be the regulations for exemptions from Section 26670 in this state. However, the department may prescribe, by regulation, any condition for exemption from Section 26670 whether or not such condition is in accordance with regulations adopted under the federal act.

SEC. 6. Section 26680 of the Health and Safety Code is amended to read:

26680. Section 26670 does not apply to any of the following:

(a) A drug or device which is sold in this state, or introduced into interstate commerce, at any time prior to the enactment of the federal act, if its labeling and advertising contained the same representations concerning the conditions of its use.

(b) Any drug which is licensed under the Public Health Service Act of July 1, 1944 (58 Stats. 682, as amended; 42 U.S.C., Sec. 201 et seq.) or under the provisions of the eighth paragraph of the heading of Bureau of Animal Industry of the act of March 4, 1913 (37 Stat. 832–833; 21 U.S.C., Sec. 151 et seq.), commonly known as the "Virus-Serum-Toxin Act."

(c) Any antibiotic drug which is subject to Section 26651.

SEC. 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act, because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 981

An act to amend Section 4850 of the Labor Code, relating to lifeguards.

[Became law without Governor's signature September 22, 1977.
Filed with Secretary of State September 22, 1977.]

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

SECTION 1. Section 4850 of the Labor Code is amended to read:

4850. Whenever any city policeman, city fireman, county fireman, fireman of any fire district, sheriff or any officer or employee of a sheriff's office, any inspector, investigator, detective or personnel with comparable title in any district attorney's office, or lifeguard employed year round on a regular, full-time basis by a county of the first class, who is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3, Government Code) is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, he shall become entitled, regardless of his period of service with the city or county, to leave of absence while so disabled without loss of salary in lieu of temporary disability payments, if any, which would be payable under this chapter, for the period of such disability but not exceeding one year, or until such earlier date as he is retired on permanent disability pension. This section shall apply only to city policemen, sheriffs or any officer or employee of a sheriff's office, and any inspector, investigator, detective or personnel with comparable title in any district attorney's office, who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3, Government Code) and excludes such employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement service, and excludes such employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It shall also apply to city firemen, county firemen, and firemen of any fire district who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3, Government Code) and excludes such employees of the city fire department, county fire department and of any fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or

otherwise and whose functions do not clearly fall within the scope of active firefighting and prevention service. It shall also apply to deputy sheriffs subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3, Government Code). It shall also apply to lifeguards employed year round on a regular, full-time basis by counties of the first class who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3, Government Code). If the employer is insured, the payments which, except for the provisions of this section, the insurer would be obligated to make as disability indemnity to the injured, the insurer may pay to the insured.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 982

An act to amend Sections 11450 and 11452 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which includes one or more needy children qualified for aid under this chapter, except as provided in Section 11403, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to his income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (d) of this section or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases or decreases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1	$166
2	273

3	338
4	402
5	459
6	516
7	566
8	616
9	666
10 or more	716

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) For children receiving foster care who are qualified for aid under the provisions of this chapter, except as provided in Section 11403, there shall be paid the sum necessary for the adequate care of each child, but not to exceed in any month the product of one hundred twenty dollars ($120) multiplied by the number of children in each county receiving foster care. The state shall pay 67.5 percent and the county shall pay 32.5 percent of the aid furnished for the adequate care of such children.

(c) As used in this chapter, "foster care" means care in a boarding home or institution.

(d) (1) In addition to the amounts payable under subdivision (a) of this section and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. The county shall pay the full cost of the additional aid furnished needy families pursuant to this subdivision after first deducting therefrom any funds received from the federal government. Such recurring special needs shall include but not be limited to special diets upon the recommendation of a physician, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(2) A family shall also be entitled to receive an allowance, at county expense after first deducting therefrom any funds received from the federal government, for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family; provided, however, that such needs shall not be taken into consideration in determining the eligibility of the family for aid.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(e) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 2. Section 11452 of the Welfare and Institutions Code is amended to read:

11452. Minimum basic standards of adequate care shall be distributed to the counties and shall be binding upon them. Such standards are hereby determined on the basis of the schedule set forth in this section, as adjusted for cost-of-living increases or decreases pursuant to Section 11453, which schedule is designed to insure:

(1) Safe, healthful housing.

(2) Minimum clothing for health and decency.

(3) Low-cost adequate food budget meeting recommended dietary allowances of the National Research Council.

(4) Utilities.

(5) Other items including household operation, education and incidentals, recreation, personal needs, and insurance.

(6) Allowance for essential medical, dental, or other remedial care to the extent not otherwise provided at public expense.

The schedule of minimum basic standards of adequate care is as follows:

Number of needy persons in the same family	Minimum basic standards of adequate care
1	$168
2	282
3	343
4	422
5	487
6	549
7	604
8	667
9	730
10	794

plus seven dollars ($7) for each additional needy person.

The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this section.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 983

An act to amend Section 41954 of, and to add Section 41962 to, the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 41954 of the Health and Safety Code is amended to read:

41954. (a) The state board shall, by March 1, 1976, adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards which are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall certify any gasoline vapor control system, upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing such certification. After a system has been certified, if circumstances beyond control of the state board cause the system to no longer meet the required specifications, the certification may be revoked or modified.

(c) The state board may test, or contract for testing, gasoline vapor control systems in order to certify them.

(d) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification.

(e) No person shall install a gasoline vapor control system unless it has been certified by the state board.

(f) To the extent authorized by other provisions of law, any district may adopt stricter procedures and performance standards than those adopted by the state board pursuant to subdivision (a).

SEC. 2. Section 41962 is added to the Health and Safety Code, to read:

41962. (a) Notwithstanding Section 34002 of the Vehicle Code, the state board shall adopt test procedures to determine the compliance of vapor recovery systems of cargo tanks on tank vehicles used to transport gasoline with vapor emission standards which are reasonable and necessary to achieve or maintain any applicable ambient air quality standard. The performance standards and test procedures adopted by the state board shall be consistent with the regulations adopted by the State Fire Marshal pursuant to Division 14.7 (commencing with Section 34001) of the Vehicle Code.

(b) The state board may test, or contract for testing, the vapor

recovery system of any cargo tank of any tank vehicle used to transport gasoline. The state board shall certify the cargo tank vapor recovery system upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing such certification. After a cargo tank vapor recovery system has been certified, if circumstances beyond control of the state board cause the system to no longer meet the required specifications, the certification may be revoked or modified.

(c) Upon verification of certification pursuant to subdivision (b), which shall be done annually, the state board shall send a verified copy of the certification to the registered owner of the tank vehicle, which copy shall be retained in the tank vehicle as evidence of certification of its vapor recovery system. For each system certified, the state board shall issue a nontransferable and nonremovable decal to be placed on the cargo tank where the decal can be readily seen.

(d) With respect to any tank vehicle operated within a district, the state board, upon request of the district, shall send to the district, free of charge, a certified copy of the certification and test results of any cargo tank vapor recovery system on the tank vehicle.

(e) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification. The fees shall be deposited in the Air Pollution Control Fund to reimburse the state board for its costs in issuing certifications.

(f) No person shall operate, or allow the operation of, a tank vehicle transporting gasoline and required to have a vapor recovery system, unless the system thereon has been certified by the state board and is installed and maintained in compliance with the state board's requirements for certification. Tank vehicles used exclusively to service gasoline storage tanks which are not required to have gasoline vapor controls are exempt from the certification requirement.

(g) Performance standards of any district for cargo tank vapor recovery systems on tank vehicles used to transport gasoline shall be identical with those adopted by the state board therefor and no district shall adopt test procedures for, or require certification of, cargo tank vapor recovery systems. No district may impose any fees on, or require any permit of, tank vehicles with vapor recovery systems. However, nothing in this section shall be construed to prohibit a district from inspecting and testing cargo tank vapor recovery systems on tank vehicles for the purposes of enforcing this section or any rule and regulation adopted thereunder that are applicable to such systems and to the loading and unloading of cargo tanks on tank vehicles.

(h) The Legislature hereby declares that the purposes of this section regarding cargo tank vapor recovery systems on tank vehicles are (1) to remove from the districts the authority to certify, except as specified in subdivision (b), such systems and to charge

fees therefor, and (2) to grant such authority to the state board, which shall have the primary responsibility to assure that such systems are operated in compliance with its standards and procedures adopted pursuant to subdivision (a).

CHAPTER 984

An act to repeal Sections 38009.1 and 38009.2 of the Health and Safety Code, and to add and repeal Sections 6513, 6514, 6515, 6516, 6517, 6518, and 6519 to the Welfare and Institutions Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 38009.1 of the Health and Safety Code is repealed.

SEC. 2. Section 38009.2 of the Health and Safety Code is repealed.

SEC. 3. Section 6513 is added to the Welfare and Institutions Code, to read:

6513. Any developmentally disabled person residing in a state hospital who has not been judicially committed shall be considered a nonprotesting resident of a state hospital or a voluntary resident if the person has given informed consent to his admission. For the purposes of this article, the State Department of Health shall establish regulations to define informed consent.

Developmentally disabled, nonprotesting or voluntary residents may leave a state hospital at any time after they, or their parent or legal guardian or conservator, request a discharge and complete state hospital discharge procedures.

The state hospital's discharge procedures for any resident may require an assessment, by an appropriate regional center, of the resident's condition, if in the opinion of the chief clinical director of the state hospital immediate release of the resident may result in serious personal harm to the resident.

Whenever the state hospital discharge procedure for a resident requires assessment by a regional center, the resident shall continue to reside in the state hospital until such assessment is completed. The regional center shall complete its assessment of the condition of such persons within 14 days of receiving a request for assessment. In conducting its assessment, the regional center shall solicit information, advice, and recommendations of state hospital personnel familiar with medical, social and other needs of the person being assessed, and the person's parents or legal guardian or conservator.

For those persons found by a regional center to no longer require state hospital care, the person shall be released, and, if necessary, the regional center shall immediately prepare and administer an individual program plan pursuant to Sections 38215 and 38216 of the Health and Safety Code for the provision of appropriate alternative services outside the state hospital.

For those persons found to be in continued need of state hospital care, the regional center shall either readmit such persons as voluntary residents of the state hospital, pursuant to the provisions of Section 38453 of the Health and Safety Code, or request the district attorney or the county counsel, when the board of supervisors has delegated such duty pursuant to Section 6519, to file a petition seeking commitment to the State Department of Health of those persons for whom commitment is believed to be more appropriate than voluntary placement.

The parent, guardian, conservator, or any person designated for that purpose by the judge of the court may also request the district attorney or the county counsel, when the board of supervisors has delegated such duty pursuant to Section 6519, to file a petition for commitment.

SEC. 4. Section 6514 is added to the Welfare and Institutions Code, to read:

6514. Whenever a petition for commitment of a person is filed pursuant to the provisions of Section 6513, judicial review shall be in the superior court for the county in which the state hospital is located. The person shall be informed of his right to counsel by a member of the staff of the state hospital, and by the court; and if he does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for commitment is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of an evidentiary hearing in the matter, to the parent, guardian, or conservator of the person and to the director of the appropriate regional center and the state hospital. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested

The court shall either release the person or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice have been mailed to the person's parent, guardian, or conservator and to the director of the appropriate regional center and state hospital.

If the court finds (a) that the person requesting release or for whom release is requested is not developmentally disabled, or (b) that the person is developmentally disabled and is able to provide safely for his basic personal needs for food, shelter, and clothing, and

is able to protect himself from ordinary threats to life, health or safety, he shall be immediately released.

Notwithstanding the provisions of Section 6500.1 of the Welfare and Institutions Code, if the court finds that the person is developmentally disabled and that he is not capable of providing for his basic personal needs for food, clothing, and shelter, and is not able to protect himself from ordinary threats to life, health, or safety, and is not willing to accept suitable care and treatment on a voluntary basis, the person may be committed to the State Department of Health for suitable care and treatment.

For the purposes of this section, the legal status of minority does not, in itself, render a person incapable of providing for his basic personal needs for food, clothing, shelter and self-protection from ordinary threats to life, health, or safety.

For the purposes of this section, suitable care and treatment is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Health under this section may include placement in any state hospital, any licensed community care facility as defined in Section 1504, or any health facility as defined in Section 1250.

Commitment under this section shall be for a period not to exceed one year. The State Department of Health may petition for renewed commitments under this section if such petition is made to the superior court at least 30 days prior to the termination of existing commitment.

Nothing in this section shall be construed to prevent the voluntary admission of developmentally disabled persons to state hospitals pursuant to Section 38221 or involuntary commitment of dangerous persons under Section 6500.1 of the Welfare and Institutions Code.

If in any proceeding under this section, the court finds that the person is developmentally disabled and has no parent, guardian, or conservator, and is in need of a guardian or conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator for the developmentally disabled person.

SEC. 5. Section 6515 is added to the Welfare and Institutions Code, to read:

6515. For a developmentally disabled person to be assessed pursuant to state hospital discharge procedures, a notice of assessment shall be signed by the clinical director of the state hospital or his designee and the director of the program unit where such resident resides. A designee of the state hospital clinical director shall be a physician.

SEC. 6. Section 6516 is added to the Welfare and Institutions Code, to read:

6516. A notice of assessment shall be required for all 14-day assessments conducted pursuant to state hospital discharge

procedures where a resident is required to continue residing at the state hospital, and shall be in substantially the following form:

To the Superior Court of the State of California for the County of _____:

The authorized state hospital in the county of _____ has evaluated the condition of:

Name _____

Address _____

Age _____

Sex _____

Marital status _____

Religious affiliation _____

We, the undersigned, allege that the above-named person is developmentally disabled, and immediate release of such person from the state hospital is likely to result in serious personal harm to himself.

We therefore certify the above-named person to receive a regional center assessment for no more than 14 days beginning this _____ day of _____, 19____, in the state hospital herein named _____.

We hereby state that a copy of this notice has been delivered this day to the above-named person and that he has been informed of his legal right to a judicial review by habeas corpus, and this term has been explained to him and that he has been informed of his right to counsel, including court-appointed counsel pursuant to Sections 38450 and 38451 of the Health and Safety Code.

We hereby state that a copy of this notice has been delivered by _____ and that the resident, when advised of his rights to a judicial review, did/did not request such review.

Date _____

Signed _____

Signed _____

Countersigned _____

Representing_____ State Hospital

SEC. 7. Section 6517 is added to the Welfare and Institutions Code, to read:

6517. The person delivering the copy of the notice of assessment to the developmentally disabled person completing state hospital discharge procedures shall, at the time of delivery, inform such resident certified of his legal right to a judicial review by habeas corpus, and shall explain the term to him, and shall inform such resident of his right to counsel, including court-appointed counsel pursuant to Section 38451 of the Health and Safety Code.

SEC. 8. Section 6518 is added to the Welfare and Institutions Code, to read:

6518. A copy of the assessment notice, as set forth in Section 6516, shall be personally delivered to the resident undergoing regional center assessment. A copy of such notice shall be filed with the superior court on the same day as the date the assessment begins or, if the court is not open for business on that day, as soon thereafter

as the court is open for business. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, to the state hospital, to his parents, guardian or conservator, to the regional center conducting the assessment, and the State Department of Health.

The resident undergoing assessment shall also be asked to designate any person whom he wishes informed regarding his assessment. If he is incapable of making such a designation at the time of assessment, he shall be asked to designate such person as soon as he is capable.

SEC. 9. Section 6519 is added to the Welfare and Institutions Code, to read:

6519. At any judicial proceeding under the provisions of this division, allegations that a person is (a) a danger to others, (b) a danger to himself, or (c) unable to provide safely for his basic personal needs for food, shelter and clothing, and is unable to protect himself from ordinary threats to life, health, or safety as a result of a developmental disability, shall be presented by the district attorney for the county, unless the board of supervisors, by ordinance or resolution, delegates such duty to the county counsel.

SEC. 10. If any provisions of Section 6514 or subdivision (c) of Section 6519 of the Welfare and Institutions Code, as added by this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The provisions of this bill are necessary to ensure, at the earliest possible time, constitutional rights to the developmentally disabled under the provisions of Chapter 1364 to Chapter 1373, inclusive, of the Statutes of 1976, which became effective on January 1, 1977.

SEC. 12. Sections 3 to 9, inclusive, of this act shall become inoperative on January 1, 1979, and on such date such sections are repealed.

CHAPTER 985

An act to add Section 4136 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 4136 is added to the Welfare and Institutions Code, to read:

4136. Each patient in a state hospital who has resided in the state hospital for a period of at least 30 days shall be paid an amount of aid for his personal and incidental needs which when added to his income equals twelve dollars and fifty cents ($12.50) per month.

CHAPTER 986

An act to amend Section 5099.12 of the Public Resources Code, relating to recreation.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 5099.12 of the Public Resources Code is amended to read:

5099.12. Of the annual apportionment of funds received by the director pursuant to this chapter, 30 percent shall be allocated for regional projects, 30 percent for less-than-regional projects, and 40 percent for state agency projects. The state agency share shall be disbursed to the following state agencies in the following percentages: 55 percent to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation Board or the Department of Fish and Game; 5 percent to the Department of Water Resources; and 5 percent to the Department of Navigation and Ocean Development.

In the event that either the state, regional, or local governmental agencies are unable to utilize their allocation of such funds, the director shall allocate the uncommitted funds to those state, regional, or local governmental agencies that are in position to take advantage of the funds during the year in which they are allocated. The 30-percent allocation for regional projects, the 30-percent allocation for less-than-regional projects and the 40-percent allocation to state agency projects shall not be computed until the costs of maintaining and keeping up to date the plan required pursuant to Section 5099.2 and an additional 6 percent for deposit to a contingency fund have been deducted.

As used in this section, "regional" and "less-than-regional" shall have such meaning as defined by the director by regulation.

SEC. 2. Section 1 of this act shall become operative on July 1, 1978.

CHAPTER 987

An act to amend Sections 830.6, 12050, 13510, and 13523 of, and to add Section 832.6 to, the Penal Code, relating to reserve peace officers, and making an appropriation therefor.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 830.6 of the Penal Code is amended to read:

830.6. (a) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, or as a deputy sheriff, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832.6, and provided further, that the authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

SEC. 2. Section 832.6 is added to the Penal Code, to read:

832.6. (a) On or after January 1, 1979, every person deputized or appointed as described in subdivision (a) of Section 830.6 shall have the powers of a peace officer only when such person is:

(1) Assigned to the prevention and detection of crime and the general enforcement of the laws of this state while working alone and the person has completed the training prescribed by the Commission on Peace Officer Standards and Training; or

(2) Assigned to the prevention and detection of crime and the general enforcement of the laws of this state while under the immediate supervision of a peace officer possessing a basic certificate issued by the Commission on Peace Officer Standards and Training, the person is engaged in a field training program approved by the Commission on Peace Officer Standards and Training, and the person has completed the course required by Section 832 and such other training prescribed by the commission; or

(3) Deployed only in such limited functions as would not usually require general law enforcement powers and the person has completed the training required by Section 832 or such other training prescribed by the commission.

(b) Notwithstanding the provisions of subdivision (a), a person deputized or appointed as described in subdivision (a) of Section 830.6 before January 1, 1979, shall have the powers of a peace officer if the appointing authority determines the person is qualified to perform general law enforcement duties by reason of the person's training and experience.

(c) In carrying out the provisions of this section, the commission:

(1) May use proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(3) Shall establish a professional certificate for reserve officers as defined in paragraph (1) of subdivision (a) of this section, and may establish a professional certificate for reserve officers as defined in paragraphs (2) and (3) of subdivision (a) of this section.

(d) In carrying out paragraphs (1) and (3) of subdivision (c), the commission may establish and levy appropriate fees, provided the fees do not exceed the cost for administering the respective services. These fees shall be deposited in the Peace Officers' Training Fund established by Section 13520.

(e) The commission shall include an amount in its annual budget request to carry out the provisions of this section.

SEC. 3. Section 12050 of the Penal Code is amended to read:

12050. (a) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, may issue to such person a license to carry concealed a pistol, revolver, or other firearm for any period of time not to exceed one year from the date of the license, or in the case of a peace officer appointed pursuant to Section 830.6, three years from the date of the license.

(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time. place, and circumstances under which the person may carry a concealed firearm.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued on or after the effective date of the amendments to this section enacted at the 1970 Regular Session of the Legislature.

SEC. 4. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards, relating to physical, mental, and moral fitness, which shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, reserve officers as defined in subdivision (a) of Section 830.6, policemen of a district authorized by statute to maintain a police department, or peace officer members of a district, in any city, county, city and county, or district receiving state aid pursuant to this chapter, and shall adopt, and may, from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, reserve officers as defined in subdivision (a) of Section 830.6,

policemen of a district authorized by statute to maintain a police department, and peace officer members of a district which shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. All such rules shall be adopted and amended pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

SEC. 5. Section 13523 of the Penal Code is amended to read:

13523. The commission shall annually allocate and the State Treasurer shall periodically pay from the Peace Officers' Training Fund, at intervals specified by the commission, to each city, county, and district which has applied and qualified for aid pursuant to this chapter an amount determined by the commission pursuant to standards set forth in its regulations. The commission shall grant aid only on a basis that is equally proportionate among cities, counties, and districts. State aid shall only be provided for training expenses of full-time regularly paid employees, as defined by the commission, of eligible agencies from cities, counties, or districts.

In no event shall any allocation be made to any city, county, or district which is not adhering to the standards established by the commission as applicable to such city, county, or district.

SEC. 6. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the Peace Officers' Training Fund to the Commission on Peace Officer Standards and Training for the purposes of this act.

CHAPTER 988

An act to add Section 3052 5 to the Civil Code, relating to liens.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 3052.5 is added to the Civil Code, to read:

3052.5. (a) The provisions of Section 3052 shall not apply to any service dealer registered with the Bureau of Repair Services pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code if such dealer reasonably believes that the serviced product is of nominal value. For purposes of this section, nominal value shall be ascertained as follows: the product is not readily salable for more than the legitimate charges against it, and either the original retail value of the product was under two hundred dollars ($200) and the product is over three years old, or the original retail value is over two hundred dollars ($200) and the product is over six years old

Service dealers may use any available materials or information including, but not limited to, industry publications, code dates, sales

records, or receipts to assist in determining value and age of the serviced product.

(b) A service dealer may select one of the following alternative methods for the disposal of unclaimed serviced products determined to have a value as specified in subdivision (a):

(1) The service dealer may provide the owner of such product with the following written notice to be mailed following completion of work on the serviced product:

DATE BROUGHT IN _____
DATE MAILED _____
DATE PRODUCT TO BE SOLD IF NOT CLAIMED

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN $200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN $200 AND WHICH IS NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM.

The notice shall be sent by certified mail, return receipt requested. A serviced product may be disposed of 90 days after the date of deliverance evidenced by the signature in the returned receipt.

(2) The service dealer may publish public notice of the intended sale in a newspaper of general circulation. Such notice shall contain a description of the serviced product, the name of the serviced product owner, and the time by which and place where the product may be redeemed. Such notice shall be published for a minimum of five times. A serviced product may be disposed of 90 days after the last date of publication.

(3) A service dealer may, upon receipt of any product to be serviced by him, provide the owner of such product with the following notice, written in at least 10-point bold type:

DATE BROUGHT IN _____
DATE MAILED _____
DATE PRODUCT TO BE SOLD IF NOT CLAIMED

NOTICE: YOUR PRODUCT HAS BEEN DETERMINED BY THIS SERVICE DEALER TO BE ONE WHICH WAS EITHER ORIGINALLY SOLD FOR LESS THAN $200 AND IS NOW OVER THREE YEARS OLD OR ONE WHICH WAS ORIGINALLY SOLD FOR MORE THAN $200 AND WHICH IS

NOW OVER SIX YEARS OLD AND THE CHARGES FOR SERVICING YOUR PRODUCT WILL EXCEED ITS CURRENT VALUE. UNDER CALIFORNIA CIVIL CODE SECTION 3052.5(a) IF YOU OR YOUR AGENT FAIL TO CLAIM YOUR PRODUCT WITHIN 90 DAYS AFTER THE DEALER MAILS A COPY OF THIS NOTICE TO YOU IT MAY BE SOLD OR OTHERWISE DISPOSED OF BY HIM.

PRINT YOUR NAME AND MAILING ADDRESS WHERE NOTICE MAY BE SENT TO YOU IN THE SPACE PROVIDED BELOW AND SIGN WHERE INDICATED TO SHOW THAT YOU HAVE READ THIS NOTICE.

_____

(Print Name)

_____

(Street Address)

_____

(City, State and Zip Code)

IF YOU DO NOT AGREE WITH THE ABOVE DETERMINED VALUE OF YOUR ITEM, DO NOT SIGN THIS DOCUMENT.

Signature: _____

(Owner or Agent)

Such notice shall be signed, addressed, and dated by the owner, with a copy to be retained by both the owner and the service dealer. At the completion of service, the service dealer shall by first-class mail, mail a completed copy of such notice to the owner of the serviced product at the address given on the notice form. A serviced product may be disposed of 90 days after the date of mailing.

(c) For purposes of this section an owner is the person or agent who authorizes the original service or repair, or delivers the product to the service dealer.

CHAPTER 989

An act to amend Section 18860 of, and to add Section 19223 to, the Government Code, relating to state civil service.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 18860 of the Government Code is amended to read:

18860. Employees in a class shall receive a salary within the limits established for that class; provided, that when a position has been allocated to a lower class or the salary range or rate of pay of the class is reduced, the board may authorize the payment of a rate above the maximum of the class; and provided further, that when an employee is moved to a position in a lower class because of reductions in force or other management-initiated changes, the board may, when recommended by the appointing power, authorize the payment of a rate above the maximum of the class for such time as the board may designate to the employee whose service has been fully satisfactory, who has completed a minimum of 10 years of state service, and who meets other eligibility standards established by the board. "State service," for the purpose of this section, may include up to one year during which the employee was off the state payroll while laid off, or on leave of absence for the purpose of lessening the effect of impending layoff or demotion. It is the responsibility of the employee to request credit for such time from the State Personnel Board. Such service shall not be credited for retirement purposes.

The board may, upon recommendation of the appointing power, apply the provisions of this section to employees who, prior to the effective date of the amendments to this section made at the 1971 Regular Session of the Legislature, moved to a position in a lower class because of reductions in force or other management-initiated changes, provided such employees have more than 30 years state service prior to the effective date of such amendments and were so demoted on July 1, 1968.

During such time as an employee's salary remains above the maximum rate of pay for his class, he shall not receive further salary increases.

SEC. 2. Section 19223 is added to the Government Code, to read:

19223. Notwithstanding any other provision of law, any person who, prior to March 30, 1977, was reinstated to a career executive assignment position, or appointed to an exempt position, after a break in service, and who held such position on May 31, 1977, shall upon termination of such career executive assignment or exempt position have the right to return to the last regular civil service position in which the person had permanent status prior to such a break in service.

CHAPTER 990

An act to amend Sections 19626 and 19627 of the Business and Professions Code, relating to fairs, and making an appropriation therefor.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 19626 of the Business Professions Code is amended to read:

19626. The first balance of the fund is hereby annually appropriated as follows:

(a) Five percent, but not to exceed one hundred eighty thousand dollars ($180,000), for payment to and the use of the citrus fruit fairs defined in Section 4603 of the Food and Agricultural Code, excluding any district or county fairs, for the purpose of conducting and carrying on annual citrus fruit fairs and expositions to promote and encourage the citrus fruit industry of this state.

(b) One hundred fifty thousand dollars ($150,000) of such 5 percent is allocated annually to the citrus fruit fairs defined in Section 4603 of the Food and Agricultural Code held in counties within area 7, as described by Section 4532 of the Food and Agricultural Code. If there is but one such fair in such counties, all of such one hundred fifty thousand dollars ($150,000) is allocated to and for the use of such fair.

(c) The balance of the 5 percent is allocated for purposes described in Section 19627.3. Other citrus fairs and expositions in area 1 to 6, inclusive, described in Section 4532 of the Food and Agricultural Code, shall be eligible for apportionment from, and subject to the limitations of, Section 19627.

(d) No appropriation shall be made under this section to any citrus fruit fair or citrus fruit fair and exposition which did not receive such an appropriation prior to 1959.

SEC. 2. Section 19627 of the Business and Professions Code is amended to read:

19627. Forty percent, but not more than four million six hundred eighty thousand dollars ($4,680,000), of the first balance of the fund is hereby annually appropriated for the encouragement of county, district, or combined county and district fairs (exclusive of the California State Fair and Exposition, the Los Angeles County Fair, 1-A District Agricultural Association, the Sixth District Agricultural Association, known and designated as the California Museum of Science and Industry, the 48th District Agricultural Association, and citrus fruit fairs referred to in subdivision (b) of Section 19626), to be apportioned by and expended under the supervision of the Department of Food and Agriculture in the manner and for the purpose prescribed by Part 4 (commencing with Section 4401) of Division 3 of the Food and Agricultural Code and other applicable provisions of law including this section.

The Department of Food and Agriculture shall apportion the money appropriated by this section to the several eligible county, district, or combined county and district agricultural fairs on the basis of the need of each such fair for financial assistance from the

state during the year for which the apportionment is to be made. No such fair shall receive such an apportionment in excess of such need as established by the department. In determining such need, the department shall take into consideration, as to each such fair, all relevant factors, including, but not limited to, the following:

(1) The approved budget of the fair.

(2) The statement of operations of the fair filed pursuant to Section 4505 of the Food and Agricultural Code.

(3) The amount of money available to the fair from its own resources or from sources other than the state.

(4) The propriety and amount of any reserve funds established, or sought to be established, by the fair.

(5) The maximum amount of revenue from all sources which might reasonably be expected to become available to the fair during such year, and the times within such year at which it will become available.

(6) The classification of the fair.

No such county, district or combined county and district agricultural fair shall receive an apportionment of more than sixty-five thousand dollars ($65,000) in any one year. No such fair shall be eligible for an apportionment pursuant to this section unless it has filed, for each year subsequent to 1958, a statement of its operations during such year as provided in Section 4505 of the Food and Agricultural Code, irrespective of whether or not an apportionment for any such year or years is sought or made and all such fairs shall be deemed to be subject to Section 4505 for all purposes.

SEC. 3. Section 19627 of the Business and Professions Code is amended to read:

19627. Forty percent, but not more than four million six hundred eighty thousand dollars ($4,680,000), of the first balance of the fund is hereby annually appropriated for the encouragement of county, district, or combined county and district fairs (exclusive of the California State Fair and Exposition, the Los Angeles County Fair, 1-A District Agricultural Association, the Sixth District Agricultural Association, known and designated as the California Museum of Science and Industry, the 48th District Agricultural Association, and citrus fruit fairs referred to in subdivision (b) of Section 19626), to be apportioned by and expended under the supervision of the Department of Food and Agriculture in the manner and for the purpose prescribed by Part 4 (commencing with Section 4401) of Division 3 of the Food and Agricultural Code and other applicable provisions of law including this section.

The Department of Food and Agriculture shall apportion the money appropriated by this section to the several eligible county, district, or combined county and district agricultural fairs on the basis of the need of each such fair for financial assistance from the state during the year for which the apportionment is to be made. No such fair shall receive such an apportionment in excess of such need as established by the department. In determining such need, the

department shall take into consideration, as to each such fair, all relevant factors, including, but not limited to, the following:

(a) Net expenditures or revenues shown in the budget.

(b) The amount of money available to the fair from state, local, or any other sources.

(c) The amount of available reserve funds, except for the revenues accumulated under Section 19627.5.

(d) The amount of funds, if any, allocated under subdivision (b) of Section 19627.3.

No such county, district or combined county and district agricultural fair shall receive an apportionment of more than sixty-five thousand dollars ($65,000) in any one year. No such fair shall be eligible for an apportionment pursuant to this section unless it has filed, for each year subsequent to 1958, a statement of its operations during such year as provided in Section 4505 of the Food and Agricultural Code, irrespective of whether or not an apportionment for any such year or years is sought or made and all such fairs shall be deemed to be subject to such Section 4505 for all purposes.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 701 are both chaptered and become effective January 1, 1978, both bills amend Section 19627 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 701, that the amendments to Section 19627 proposed by both bills be given effect and incorporated in Section 19627 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill No. 701 are both chaptered and become effective January 1, 1978, both amend Section 19627, and this bill is chaptered after Assembly Bill No. 701, in which case Section 2 of this act shall not become operative.

CHAPTER 991

An act to amend Sections 10131.3 and 10177 of, and to repeal Chapter 4 (commencing with Section 10250) of Part 1 of Division 4 of, the Business and Professions Code, and to add Sections 25206 and 25706 to the Corporations Code, relating to real estate syndicates.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 10131.3 of the Business and Professions Code is amended to read:

10131.3. A real estate broker within the meaning of this part is also a person who, for another or others, for compensation or in expectation of compensation, issues or sells, solicits prospective sellers or purchasers of, solicits or obtains listings of, or negotiates the

purchase, sale, or exchange of securities as specified in Section 25206 of the Corporations Code.

The provisions of this section do not apply to a broker-dealer or agent of a broker-dealer licensed by the Commissioner of Corporations under the provisions of the Corporate Securities Law of 1968.

SEC. 2. Section 10177 of the Business and Professions Code is amended to read:

10177. The commissioner may suspend or revoke the license of any real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or any salesman, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal or reinstatement.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 of the Penal Code allowing such licensee to withdraw his plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business, or any business opportunity or any land or subdivision (as defined in Chapter 1 (commencing with Section 11000) of Part 2 of this division) offered for sale.

(d) Willfully disregarded or violated any of the provisions of the Real Estate Law (commencing with Section 10000 of this code) or of Chapter 1 (commencing with Section 11000) of Part 2 of this division or of the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 of Part 2 of this division.

(e) Willfully used the term "realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(f) Acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license.

(g) Demonstrated negligence or incompetence in performing any act for which he is required to hold a license.

(h) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his salesmen.

(i) Has used his employment by a governmental agency in a capacity giving access to records, other than public records, in such manner as to violate the confidential nature of such records.

(j) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in any order granting a restricted license.

(*l*) Solicited or induced the sale, lease or the listing for sale or lease, of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools, due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, ancestry or national origin.

(m) Violated any of the provisions of the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or any regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated any of the provisions of the Corporations Code or of the regulations of the Commissioner of Corporations relating to securities as specified in Section 25206 of the Corporations Code.

SEC. 3. Chapter 4 (commencing with Section 10250) of Part 1 of Division 4 of the Business and Professions Code is repealed.

SEC. 4. Section 25206 is added to the Corporations Code, to read:

25206. A broker licensed by the Real Estate Commissioner is exempt from the provisions of Section 25210 when engaged in transactions in any interest in any general or limited partnership, joint venture, unincorporated association, or similar organization (but not a corporation) owned beneficially by no more than 100 persons and formed for the sole purpose of, and engaged solely in, investment in or gain from an interest in real property, including, but not limited to, a sale, exchange, trade, or development. An interest held by a husband and wife shall be considered held by one person for the purposes of this section.

SEC. 5. Section 25706 is added to the Corporations Code, to read:

25706. (a) All effective permits, orders, and consents under the Real Estate Syndicate Act, all administrative orders relating to the Real Estate Syndicate Act, and all conditions imposed upon the Real Estate Syndicate Act remain in effect so long as they would have remained in effect if such act had not been repealed, but shall be considered to have been filed, entered, or imposed under this law. An application to amend, extend, modify, revoke, or set aside any such permits, orders, or consents shall be filed under and be subject to the provisions of this division.

(b) Any application pending under the Real Estate Syndicate Act, upon the effective date of this section, shall be processed by the Real Estate Commissioner pursuant to the provisions of the Real Estate Syndicate Act in effect on December 31, 1977, until such application is granted or denied by such commissioner.

(c) Except as expressly provided by this section, the Real Estate Syndicate Act continues to govern all suits, actions, prosecutions, or proceedings which are pending prior to, or which may be initiated

thereunder on the basis of facts or circumstances occurring prior to, the effective date of this section.

(d) No civil suit or action may be maintained to enforce any liability under the Real Estate Syndicate Act, unless brought within any period of limitation which applied the time the cause of action accrued.

(e) Judicial review of all administrative orders under the Real Estate Syndicate Act as to which review proceedings have not been commenced prior to the effective date of this section shall be governed by Section 25609, except that no review proceeding may be commenced unless the petition is filed within the applicable period of limitation which applied to a review proceeding when the order was issued and except that judicial review of administrative orders of the Real Estate Commissioner made pursuant to subdivision (b) shall be governed by the provisions of law applicable to such proceedings on December 31, 1977.

CHAPTER 992

An act to add Chapter 6.5 (commencing with Section 1980) to Part 1 of the Education Code, relating to county community schools.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Chapter 6.5 (commencing with Section 1980) is added to Part 1 of the Education Code, relating to county community schools:

CHAPTER 6.5. COUNTY COMMUNITY SCHOOLS

1980. A county board of education may establish and maintain one or more community schools.

1981. The county board of education may enroll in community schools:

(a) Pupils who have been expelled from a school while attending either continuing classes, opportunity classes, or alternative classes.

(b) Pupils who have been excluded from programs for the educationally handicapped established pursuant to Chapter 4 (commencing with Section 56600) of Part 30 or students who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board.

(c) Pupils who are court wards or on probation from juvenile halls or camps who are not in attendance in any school and who are referred by any court.

1982. County community schools shall be administered by the county superintendent of schools.

For purposes of making apportionments from the State School Fund and the levying of local taxes, any attendance generated by students in county community schools pursuant to subdivisions (a) and (b) of Section 1981 shall be credited to the district of residence. School districts shall pay to the county for the purposes of the community schools the entire revenue limit for each average daily attendance credited pursuant to this section. No funds generated by such average daily attendance shall be retained by the district of residence. The county superintendent of schools may use funds derived from existing tax revenues to provide additional funding per student enrolled in county community schools but not to exceed the difference between the amount derived per student from the district and the amount available per student enrolled in juvenile court schools.

For the purposes of making apportionments from the State School Fund, average daily attendance credited pursuant to this section shall not be deemed to meet the requirements, and therefore shall not be eligible for State School Fund apportionments calculated pursuant to Section 41711.

For the purposes of making apportionments from the State School Fund, pupils enrolled in county community schools pursuant to subdivision (c) of Section 1981 shall be deemed to be enrolled in a county juvenile hall or camp.

1983. (a) Pupils enrolled in county community schools shall be assigned to classes or programs deemed most appropriate for reinforcing or reestablishing educational development.

(b) Such classes or programs may include, but need not be limited to, basic educational skill development, on-the-job training, tutorial assistance, independent study requirements, and individual guidance activities.

(c) An individually planned educational program based upon an educational assessment shall be prescribed for each pupil.

(d) The course of study of a county community school shall be adopted by the county board of education and shall enable each pupil to continue academic work leading to the completion of a regular high school program.

1984. For the purposes of establishing and maintaining a county community school, a county board of education shall be deemed to be a school district.

1985. A biannual status report relating to the operation of county community schools shall be submitted to the Legislature. Such reports will be based on information requested and consolidated by the Superintendent of Public Instruction and furnished by the counties operating such programs. The first status report shall be submitted to the Legislature by January 1, 1981.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and

Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 993

An act to amend Section 27001 of, and to add Section 25251.4 to, and to add Article 13 (commencing with Section 28085) to Chapter 5 of Division 12 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 25251.4 is added to the Vehicle Code, to read:

25251.4. Any motor vehicle may also be equipped with a theft alarm system which flashes any of the lights required or permitted on the motor vehicle and which operates as specified in Article 13 (commencing with Section 28085) of Chapter 5 of this division.

SEC. 2. Section 27001 of the Vehicle Code is amended to read:

27001. (a) The driver of a motor vehicle when reasonably necessary to insure safe operation shall give audible warning with his horn.

(b) The horn shall not otherwise be used, except as a theft alarm system which operates as specified in Article 13 (commencing with Section 28085) of this chapter.

SEC. 3. Article 13 (commencing with Section 28085) is added to Chapter 5 of Division 12 of the Vehicle Code, to read:

Article 13. Theft Alarm System

28085. Any motor vehicle may be equipped with a theft alarm system which flashes the lights of the vehicle, or sounds an audible signal, or both, and which operates as follows:

(a) The system may flash any of the lights required or permitted on the vehicle.

(b) The system may sound an audible signal.

(c) Such system shall be designed to be activated only when the vehicle is parked.

(d) No vehicle shall be equipped with a theft alarm system which emits the sound of a siren.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental

entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 994

An act to amend Sections 700, 1858.1, 1858.3, and 12389 of, to add Section 1858.2 to, and to repeal Section 1858.2 of, the Insurance Code, relating to insurance.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 700 of the Insurance Code is amended to read:

700. (a) A person shall not transact any class of insurance business in this state without first being admitted for such class. Such admission is secured by procuring a certificate of authority from the commissioner. Such certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.

(b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars ($100,000), or by both, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

(c) The holder of a certificate of authority shall comply with all of the requirements as to its business which are set forth in this code and in the other laws of this state. Whenever the commissioner finds, after proper notice and hearing, that an insurer has failed to comply with or has violated any of the provisions of Article 10 (commencing with Section 900) of Chapter 1, Part 2, Division 1 of this code, the commissioner may suspend the certificate of authority of such insurer for a period not exceeding one year or, in the alternative, may permit a monetary penalty in lieu of suspension as provided for in Section 704.7.

(d) Any administrative proceedings brought under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

SEC. 2. Section 1858.1 of the Insurance Code is amended to read:

1858.1. If after examination of an insurer, rating organization, advisory organization, or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, or upon the basis of other information, or upon sufficient complaint as provided in Section 1858, the commissioner has good cause to believe

that such insurer, organization, group or association, or any rate, rating plan or rating system made or used by any such insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, he shall give notice in writing to such insurer, organization, group or association stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than 10 days thereafter, in which such noncompliance may be corrected.

A person served with such notice of noncompliance may, within the time specified therein, (a) establish to the satisfaction of the commissioner that such noncompliance does not exist, or (b) request a public hearing, notice of which shall be given at least 30 days prior to the date set for hearing, or (c) enter into a consent order with the commissioner to correct the specified noncompliance within a period of time specified in the consent order. Such order shall provide that in the event the noncompliance is not corrected within the time specified therein that a money penalty of not to exceed one thousand dollars ($1,000) shall attach and be collected by the commissioner for each day the violation of the consent order continues. Such money penalty shall not exceed in the aggregate the sum of thirty thousand dollars ($30,000). In addition to or in lieu of the procedure provided herein the commissioner may proceed with a public hearing as provided in Section 1858.2.

SEC. 3. Section 1858.2 of the Insurance Code is repealed.

SEC. 4. Section 1858.2 is added to the Insurance Code, to read:

1858.2. At the election of the commissioner, or if the insurer organization group or association does not make such changes as may be necessary to correct the noncompliance specified in the notice issued under Section 1858.1, or at the request of such person as provided for in Section 1858.1, or at the request of such person as provided for in Section 1858.1, or if such person has failed to establish to the satisfaction of the commissioner that such noncompliance does not exist, then the commissioner may hold a public hearing by mailing a notice to such person not less than 30 days prior to the date set for hearing specifying the matters to be considered at the hearing.

SEC. 5. Section 1858.3 of the Insurance Code is amended to read:

1858.3. If after a hearing pursuant to Section 1858.2 the commissioner finds:

(a) That any rate, rating plan or rating system violates the provisions of this chapter applicable to it, he may issue an order to the insurer or rating organization which has been the subject of the hearing specifying in what respects such violation exists and stating when, within a reasonable period of time, the further use of such rate or rating system by such insurer or rating organization in contracts of insurance made thereafter shall be prohibited. The commissioner may, in addition to such order, direct the insurer or rating organization to take such other corrective action as he may deem necessary and proper.

(b) That an insurer, rating organization, advisory organization, or a group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, is in violation of the provisions of this chapter applicable to it other than the provisions dealing with rates, rating plans or rating systems, he may issue an order to such insurer, organization, group or association which has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(c) Any order of the commissioner issued pursuant to subdivision (a) or (b) shall provide that a money penalty of not to exceed one thousand dollars ($1,000) shall attach and be collected by the commissioner for each day such person fails to comply within the time specified therein with the provisions of such order in the same manner as that provided in Section 1858.1. Such penalty shall not exceed in the aggregate the sum of thirty thousand dollars ($30,000).

SEC. 6. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business	Amount of required minimum net worth
Less than 10,000	$20,000
10,000 to 50,000	30,000
50,000 to 100,000	60,000
100,000 to 500,000	100,000
500,000 to 1,000,000	150,000
1,000,000 or more	200,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the lesser of: (a) the actual cost thereof, or (b) 50 percent of its stated

capital, as defined in Section 1900 of the Corporations Code.

Where the information in the title plant is not being kept current, the asset value of such plant shall not exceed the actual cost less 20 percent of the actual cost for each 12-month period, immediately preceding the date such asset is valued for purposes of this subdivision, that the title plant is not actually maintained.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one-hundred-seventy-five-dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit

an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant approved by the commissioner specifically for the particular company. Approval of an auditor for a particular company shall not be deemed to be a licensing of the auditor nor approval of the auditor for any other company or any other purpose. Any such approval, or the renewal thereof, shall automatically expire on the first day of January in the fifth calendar year following the date of original or renewal approval. The fee for filing an application for such approval or the renewal thereof shall be seventeen dollars and fifty cents ($17.50). The fee for filing the audit shall be thirty-seven dollars and fifty cents ($37.50).

The commissioner may deny or revoke approval or renewal of approval of an auditor for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license;

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective;

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant; or

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) All funds deposited with the company in connection with any escrow shall be deposited in a bank in a separate trust account, and such funds shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the company. Such funds shall not be subject to any debts of the company and shall be used only to fulfill the terms of the individual escrow under which the funds were accepted and none of such funds shall be used until all conditions of the escrow have been met.

Bona fide drafts executed by persons fully responsible financially may at the option of the company, be deemed the equivalent of funds already cleared into such bank deposit unless another law of this state prohibits such persons from tendering such drafts to escrow holders for the purpose of closing escrows.

Any interest received on funds deposited with the company in connection with any escrow which are deposited in a bank shall be paid over to the depositing party to the escrow and shall not be transferred to the account of the company.

(2) It shall maintain a record of all receipts and disbursements of escrow funds.

(3) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(4) It shall obtain and maintain a fidelity bond on file with the commissioner, to cover all officers and employees of the company who participate in any escrow transaction that is handled by the company. Such bond shall be a blanket bond or, with the approval of the commissioner, may be a position or individual bond. The commissioner shall prescribe the amount of the bond which shall not exeed two hundred thousand dollars ($200,000). In the commissioner's sole discretion, he may accept a cash deposit in an amount not to exceed two hundred thousand dollars ($200,000) in lieu of the bond otherwise required by this paragraph. In the event such a deposit is accepted by the commissioner, he shall make a

special deposit thereof in the State Treasury and so long as the depositor continues to be solvent, the depositor shall annually receive the interest accruing on the assets in the deposit.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 995

An act to amend Sections 73560, 73561, 73561.2, 73562, 73563, 73564, 73565, and 73566 of, and to repeal Sections 74221.1 and 74221.2 of, the Government Code, relating to courts.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 73560 of the Government Code is amended to read:

73560. This article applies to all of the municipal courts established in the County of Monterey, which are in judicial districts entitled as

follows: the Monterey Peninsula Judicial District, the Salinas Judicial District, and the North Monterey County Judicial District.

SEC. 2. Section 73561 of the Government Code is amended to read:

73561. Each of the municipal court districts established in the County of Monterey shall have the number of judges set out below opposite the name of the judicial district over which such court has jurisdiction:

Monterey Peninsula Judicial District	3
Salinas Judicial District	3
North Monterey County Judicial District	1

SEC. 3. Section 73561.2 of the Government Code is amended to read:

73561.2. Notwithstanding Section 72190, the commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law. The commissioner shall receive a salary of 50 percent of the salary received by a judge of the municipal court. The commissioner may serve and perform all the duties authorized by law in any municipal court by agreement of two concerned presiding judges. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC. 4. Section 73562 of the Government Code is amended to read:

73562. The municipal court judges may, by a majority vote, appoint a municipal courts administrator who shall serve all the municipal courts and who shall be the clerk of each of the municipal courts designated in Section 73560; provided however, that the municipal courts administrator shall not be the municipal court administrator or clerk of any judicial district in which the majority of those judges decline to approve or determine to revoke the appointment. He shall receive a salary at the rate specified in Range No. M76. He shall be the appointing authority for those positions listed in Section 73563.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal courts administrator among which shall be:

(a) To direct and coordinate the nonjudicial activities of the districts.

(b) To coordinate the personnel practices in compliance with rules of the districts and those of the County of Monterey.

(c) To prepare and administer the budgets of the districts.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment and supplies necessary for operation of the districts.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges of each district relating to the business of the districts, including, but not limited to, such matters as standardization of forms, procedures, and of classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal courts.

(h) To prepare procedure guides for the personnel of the municipal courts.

(i) To make arrangements for and attend all meetings of the judges, to assist in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(j) To serve as liaison for the districts with other persons, committee boards, groups, and associations as directed by the presiding judge of each district.

(k) To assist Monterey County justice courts upon request of the justice court judge and approval of the Monterey County Board of Supervisors.

SEC. 5. Section 73563 of the Government Code is amended to read:

73563. The number of positions within each job classification which may be filled by appointment by the municipal courts administrator, and the salary range which constitutes the compensation for each job classification, are as follows:

In the Monterey Peninsula Municipal Court District:

Number	Salary range	Job classification
1	41	Assistant clerk of the municipal court
1	36A	Senior municipal court clerk
6	34	Municipal court clerk
1	32	Principal clerk
1	30A	Senior typist-clerk
1	31A	Senior account clerk
1	30	Stenographer-clerk II
4	29A	Legal process clerk
9	28A	Typist-clerk II

In the Salinas Municipal Court District

Number	Salary range	Job classification
1	41	Assistant clerk of the municipal court
2	36A	Senior municipal court clerk
7	34	Municipal court clerk
1	30A	Senior typist-clerk
1	31A	Senior account clerk
1	30	Stenographer-clerk II
4	29A	Legal process clerk
6	28A	Typist-clerk II

In the North Monterey County Municipal Court District

Number	Salary range	Job classification
1	36A	Senior municipal court clerk
2	34	Municipal court clerk
1	31A	Senior account clerk
1	30	Stenographer-clerk II
1	29A	Legal process clerk
2	28A	Typist-clerk II

SEC. 6. Section 73564 of the Government Code is amended to read:

73564. Whenever reference to a numbered salary range is made in any section of this article, the schedule of monthly salaries found in the salary resolution of the County of Monterey in effect on May 1, 1977, shall apply.

SEC. 7. Section 73565 of the Government Code is amended to read:

73565. Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to position classifications included in the salary resolution of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of all the municipal court districts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall govern salary adjustments and employee benefits for attachés of all the municipal court districts in Monterey County.

On the effective date of any amendment to said resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount.

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary resolution and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court classification	County classification
Municipal courts administrator	Municipal courts administrator
Assistant clerk of the municipal court	Assistant clerk of the municipal court
Senior municipal court clerk	Supervising clerk II
Municipal Court clerk	Superior Court clerk
Senior typist-clerk	Senior typist-clerk
Senior account clerk	Senior account clerk
Stenographer-clerk II	Stenographer-clerk II

Legal process clerk	Legal process clerk
Typist-clerk II	Typist-clerk II

Attachés of all the municipal court districts shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including anniversary dates, changes thereto, and step advancements.

SEC. 8. Section 73566 of the Government Code is amended to read:

73566. (a) With the approval of the board of supervisors, a majority of municipal court judges of any municipal court district in the county may establish positions for officers, attachés, and employees in addition to those provided by this article. The order and approval establishing any such position shall designate the position title and pay rate.

When any additional positions are so established, the municipal courts administrator may appoint and employ such additional officers, attachés, and employees as are necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members.

(b) Any adjustment made pursuant to this section shall be effective when established by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

(c) Notwithstanding any other provision of law, all officers and employees of the Castroville-Pajaro Judicial District other than the constable shall succeed to equivalent or higher positions in the North Monterey County Municipal Court and shall receive prior service credit and maintain employee benefits earned as officers, attachés and employees of the superseded court.

SEC. 9. Section 74221.1 of the Government Code is repealed.

SEC. 10. Section 74221.2 of the Government Code is repealed.

SEC. 11. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 996

An act to amend Section 12051 of the Penal Code, relating to crimes.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 12051 of the Penal Code is amended to read:

12051. (a) Applications for licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number and the caliber.

Applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. Such forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application.

(b) Any person who files an application required by subdivision (a) knowing that statements contained therein are false is guilty of a misdemeanor.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 997

An act to amend Section 14008.1 of the Financial Code, relating to credit unions.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 14008.1 of the Financial Code is amended to read:

14008.1. (a) A central credit union may, with the approval of the commissioner and under such regulations as he shall prescribe, admit to membership, groups of employees of a common employer, of at least 25 in number and whose place of employment is located within 25 miles of the principal office of the central credit union, or is located within the boundaries of a greater or lesser geographic area prescribed by the commissioner, upon application made by the employer and approval of the board of directors of the central credit union.

(b) Whenever the employee group exceeds 500 in number, such

employees may organize a separate credit union, and thereafter the employees will no longer be eligible for membership in the central credit union. The central credit union, upon a plan approved by the commissioner, shall transfer the member accounts of such employees to any credit union formed by them.

CHAPTER 998

An act to add Chapter 5A (commencing with Section 1759) to Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Chapter 5A (commencing with Section 1759) is added to Part 2 of Division 1 of the Insurance Code, to read:

CHAPTER 5A. ADMINISTRATORS

1759. Wherever the term "administrator" is used in this chapter, it shall mean any person who collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities other than (a) an employer on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of such employer, (b) a union on behalf of its members, (c) an insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business or prepaid hospital or health care service plan (including their sales representatives licensed in this state when engaged in the performance of their duties as such), (d) a life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance, (e) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors, (f) a trust, its trustees, agents and employees acting thereunder, established in conformity with 29 U.S.C. 186, (g) a trust exempt from taxation under Section 501 (a) of the Internal Revenue Code, its trustees, and employees acting thereunder, or a custodian, its agents and employees acting pursuant to a custodian account which meets the requirements of Section 401 (f) of the Internal Revenue Code, (h) a bank, credit union or other financial institution which is subject to supervision or examination by federal or state regulatory authorities, (i) a company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or

settle claims, (j) a person who adjusts or settles claims in the normal course of his practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities, (k) an adjuster licensed by the Department of Consumer Affairs when engaged in the performance of his duties as such, or (*l*) a nonprofit agricultural association.

1759.1. No administrator shall act as such without a written agreement between the administrator and the insurer, and such written agreement shall be retained as part of the official records of both the insurer and the administrator for the duration of the agreement and five years thereafter. Such written agreement shall contain provisions which include the requirements of Sections 1759.2 to 1759.8, inclusive, except insofar as those requirements do not apply to the functions performed by the administrator.

Where a policy is issued to a trustee or trustees, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the insurer and the administrator for the duration of the policy and five years thereafter.

1759.2. Whenever an insurer utilizes the services of an administrator under the terms of a written contract as required in Section 1759.1, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payment of return premiums or claims by the insurer to the administrator shall not be deemed payment to the insured or claimant until such payments are received by the insured or claimant. Nothing herein shall limit any right of the insurer against the administrator resulting from its failure to make payments to the insurer, insureds or claimants.

1759.3. Every administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in Section 1759.1 and five years thereafter adequate books and records of all transactions between it, insurers and insured persons. Such books and records shall be maintained in accordance with prudent standards of insurance record keeping. The insurer shall retain the right to continuing access to such books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in such books and records.

The commissioner shall have access to such books and records for the purpose of examination, audit, and inspection. Any information contained therein, including but not limited to the identity and addresses of policyholders and certificateholders, shall be confidential, except the commissioner may use such information in any proceedings instituted against the administrator.

1759.4. An administrator may use only such advertising pertaining to the business underwritten by an insurer as has been

approved by such insurer in advance of its use.

1759.5. The agreement shall make provision with respect to the underwriting or other standards pertaining to the business underwritten by such insurer.

1759.6. All insurance charges or premiums collected by an administrator on behalf of or for an insurer or insurers, and return premiums received from such insurer or insurers, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled thereto, or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, the administrator shall cause the bank in which such fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The administrator shall promptly obtain and keep copies of all such records and, upon request of an insurer, shall furnish such insurer with copies of such records pertaining to deposits and withdrawals on behalf of or for such insurer. The administrator shall not pay any claim by withdrawals from such fiduciary account. Withdrawals from such account shall be made, as provided in the written agreement between the administrator and the insurer, for (1) remittance to an insurer entitled thereto; (2) deposit in an account maintained in the name of such insurer; (3) transfer to and deposit in a claims paying account, with claims to be paid as provided in Section 1759.7; (4) payment to a group policyholder for remittance to the insurer entitled thereto; (5) payment to the administrator of its commission, fees or charges; or (6) remittance of return premiums to the person or persons entitled thereto.

1759.7. All claims paid by the administrator from funds collected on behalf of the insurer shall be paid only on checks or drafts of and as authorized by such insurer.

1759.8. With respect to any policies where an administrator adjusts or settles claims, the compensation to the administrator with regard to such policies shall in no way be contingent on claim experience

1759.9. Where the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer, to insured individuals, advising them of the identity of and relationship among the administrator, the policyholder and the insurer. Where an administrator collects funds, it must identify and state separately in writing to the person paying to the administrator any charge or premium for insurance coverage the amount of any such charge or premium specified by the insurer for such insurance coverage.

1759.10. No person shall act as, or hold himself out to be, an administrator in this state, other than an adjuster licensed in this state for the kinds of business for which he is acting as an administrator,

unless he holds a certificate of registration as an administrator issued by the commissioner. Such certificate shall be issued, renewed, and held in accordance with, and subject to, all the provisions applicable to a life agent contained in Articles 6 (commencing with Section 1666), excluding Sections 1672 and 1673, 10 (commencing with Section 1708), excluding Section 1714, 11 (commencing with Section 1716), and 13 (commencing with Section 1737), excluding Sections 1741 and 1745, of, and subject to the fees applicable to resident life agents as set forth in Article 14 (commencing with Section 1750) of, Chapter 5 of this division.

CHAPTER 999

An act to amend Sections 403, 404, 507, and 29202 of the Elections Code, relating to elections.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 403 of the Elections Code is amended to read:

403. All deputies and registration clerks shall return all affidavits of registration and all books or pads in their possession containing stubs and spoiled or unused affidavit blanks on the 53rd day before an election, and may apply for new registration materials for use until the close of registration.

All other persons distributing voter registration cards pursuant to subdivision (b) of Section 507 and who receive completed voter registration cards from voters shall return the completed cards to the county clerk or shall deposit such cards in the postal service within three days, excluding Saturdays, Sundays, and state holidays, of receipt from a voter.

SEC. 2. Section 404 of the Elections Code is amended to read:

404. When the registration for a statewide primary or general election is closed, or when directed by the county clerk for the close of registration for any other election, all deputies or registration clerks and all organizations which have submitted plans for distribution, shall immediately return all affidavits of registration in their possession including unused affidavit blanks.

SEC. 3. Section 507 of the Elections Code is amended to read:

507. In addition to registration conducted by deputy registrars of voters, the county clerk shall, as follows:

(a) Provide voter registration cards for the registration of voters at his office and in sufficient number of locations throughout the county for the convenience of persons desiring to register, to the end that registration may be maintained at a high level.

(b) Provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute such cards. Such citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county.

If distribution of voter registration cards pursuant to this subdivision is undertaken by mailing cards to persons who have not requested the cards, the person mailing such cards shall enclose a cover letter or other notice with each card instructing the recipients to disregard the cards if they are currently registered voters.

(c) Mail a voter registration card immediately to any person who wishes to register to vote and requests a voter registration card.

SEC. 4. Section 507 of the Elections Code is amended to read:

507. In addition to registration conducted by deputy registrars of voters, the county clerk shall, as follows:

(a) Provide voter registration cards for the registration of voters at his office and in sufficient number of locations throughout the county for the convenience of persons desiring to register, to the end that registration may be maintained at a high level.

(b) Provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute such cards. Such citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county.

If, after completing his or her voter registration affidavit, an elector entrusts it to another person, the latter shall sign and date the attached, numbered receipt indicating his or her address and telephone number, if any, and give the receipt to the elector.

If distribution of voter registration cards pursuant to this subdivision is undertaken by mailing cards to persons who have not requested the cards, the person mailing such cards shall enclose a cover letter or other notice with each card instructing the recipients to disregard the cards if they are currently registered voters.

(c) Mail a voter registration card immediately to any person who wishes to register to vote and requests a voter registration card.

SEC. 5. Section 29202 of the Elections Code is amended to read:

29202. Any person who (a) willfully interferes with the prompt transfer of a completed affidavit of registration to the county clerk, (b) retains a voter's completed registration card, without the voter's authorization, for more than three days, excluding Saturdays, Sundays, and state holidays, or (c) denies a voter the right to return to the county clerk the voter's own completed registration card is guilty of a misdemeanor.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No 1328 are both chaptered and become effective on January 1, 1978, and both amend Section 507 of the Elections Code, and this bill is chaptered after Assembly Bill No. 1328, that the amendments to Section 507 proposed by both bills be given effect and incorporated in Section 507 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 1328 are both chaptered, both amend Section 507,

and Assembly Bill No. 1328 is chaptered before this bill, in which case Section 3 of this act shall not become operative.

CHAPTER 1000

An act to amend Sections 99233.5, 120050, 120051.5, 120100, 120107, 120260, 120302, and 120355 of the Public Utilities Code, and to amend Section 199.3 of the Streets and Highways Code, relating to transit development boards.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 99233.5 of the Public Utilities Code is amended to read:

99233.5. (a) One percent of the remaining money in the fund for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated for long-term transportation system planning pursuant to Section 120300 to the council of governments that is the transportation planning agency for that area.

(b) (1) Up to 10 percent of the remaining money for the area under the jurisdiction of a transit development board created pursuant to Division 11 (commencing with Section 120000) shall be allocated to the transit development board to carry out its powers, duties, and functions.

(2) Thereafter, the remaining money for allocation in that area shall be allocated by the transportation planning agency to claimants as directed by the transit development board.

SEC. 2. Section 120050 of the Public Utilities Code is amended to read:

120050. There is hereby created the San Diego Metropolitan Transit Development Board in that portion of the County of San Diego as described in Section 120052 and, if the board assumes the operation of the San Diego Transit Corporation, Section 120054.

The board shall consist of eight members selected as follows:

(a) One member of the County of San Diego Board of Supervisors appointed by the board of supervisors.

(b) The Mayor of the City of San Diego.

(c) Three members of the City Council of the City of San Diego appointed by the city council.

(d) One councilman appointed jointly by the City Councils of the Cities of Chula Vista, Imperial Beach, and National City from their membership.

(e) One councilman appointed jointly by the City Councils of the Cities of El Cajon, La Mesa, and Lemon Grove from their membership.

(f) One member, a resident of the area described in Section 120052 and, if the board assumes the operation of the San Diego Transit Corporation, Section 120054, appointed by the Governor, with the advice and consent of the Senate.

SEC. 2.5. Section 120051.5 of the Public Utilities Code is amended to read:

120051.5. (a) The County of San Diego Board of Supervisors shall appoint any other county supervisor who qualifies for appointment pursuant to Section 120051 to serve as an alternate member of the transit development board.

(b) The Mayor of the City of San Diego shall appoint a member of the City Council of the City of San Diego not already appointed pursuant to subdivision (c) of Section 120050 or subdivision (c) of this section to serve as an alternate member of the transit development board.

(c) The City Council of the City of San Diego shall appoint a member of the city council not already appointed pursuant to subdivision (c) of Section 120050 or subdivision (b) of this section to serve as an alternate member of the transit development board for any one of the members appointed by the city council to the transit development board.

(d) The city councils specified in subdivision (d) of Section 120050 shall jointly appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(e) The city councils specified in subdivision (e) of Section 120050 shall jointly appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(f) An alternate member may not vote on adoption of any plan or annual budget, unless the alternate member is an elected official and has written authorization and instructions from the regular member on how to vote on the adoption of the plan or annual budget, as the case may be.

SEC. 3. Section 120100 of the Public Utilities Code is amended to read:

120100. (a) The board at its first meeting, and thereafter annually at the first meeting in January, shall elect a chairman who shall preside at all meetings, and a vice chairman who shall preside in his absence. In the event of their absence or inability to act, the members present, by an order entered in the minutes, shall select one of their members to act as chairman pro tem, who, while so acting, shall have all of the authority of the chairman.

(b) No member shall serve as chairman for more than two successive terms.

SEC. 4. Section 120107 of the Public Utilities Code is amended to read:

120107. Each member of the board, including alternate members

appointed pursuant to Section 120051.5 when serving in the absence of a regular member, shall be paid seventy-five dollars ($75) for each day the member attends meetings of the board, and his necessary and reasonable expenses in performing his duties as a board member.

SEC. 5. Section 120260 of the Public Utilities Code is amended to read:

120260. The board shall plan and construct exclusive public mass transit guideways in the area under its jurisdiction in conformance with the California Transportation Plan and the regional transportation plan developed pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

SEC. 6. Section 120302 of the Public Utilities Code is amended to read:

120302. Notice of the time and place of the public hearing for the adoption of the plan prepared pursuant to Section 120301, or amendments to the plan, by the board shall be published pursuant to Section 6061 of the Government Code, and shall be published not later than the 15th day prior to the date of the hearing.

The proposed plan, or amendments thereto, as the case may be, shall be available for public inspection at least 15 days prior to the hearing.

SEC. 7. Section 120355 of the Public Utilities Code is amended to read:

120355. The board may take all action necessary to obtain funding available pursuant to Section 1602 of Title 49 of the United States Code.

No other public entity in the area under the jurisdiction of the board shall file application for such funds for exclusive public mass transit guideway purposes. Any project of such other public entity funded by such funds shall be in conformance with the transportation improvement program of the board.

SEC. 8. Section 199.3 of the Streets and Highways Code is amended to read:

199.3. Commencing on July 1, 1983, the amount budgeted and allocated to the transit development board pursuant to Section 199.1 shall be reduced by an amount equal to the amount, if any, by which the total amount being retained for the board pursuant to Section 199.2 exceeds the total amount allocated to the board during the prior five years pursuant to Section 199.1.

For purposes of this section, funds encumbered as a result of the letting of a contract by the board for the construction of an exclusive public mass transit guideway system shall not be deemed funds retained by the board.

CHAPTER 1001

An act to amend Section 18960 of the Health and Safety Code, relating to historical buildings.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 18960 of the Health and Safety Code is amended to read:

18960. (a) A State Historical Building Code Advisory Board is hereby established within the Office of Architecture and Construction which shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as an advisory review body to state and local agencies and make recommendations on changes in and interpretations of this part as well as on matters of administration and enforcement of it.

(d) The board shall be composed of representatives of state agencies and public and professional building design organizations. Unless otherwise indicated, each named organization shall designate its own representative. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

(1) Office of Architecture and Construction.

(2) The State Fire Marshal

(3) The State Historical Resources Commission.

(4) The California Occupational, Safety and Health Standards Board.

(5) California Council, American Institute of Architects.

(6) Structural Engineers Association of California

(7) A mechanical engineer, Consulting Engineers Association of California.

(8) An electrical engineer, Consulting Engineers Association of California.

(9) California Council of Landscape Architects.

(10) The Department of Housing and Community Development.

(11) The Department of Parks and Recreation.

(12) County Supervisors Association of California.

(13) League of California Cities

(14) The State Department of Health.

(15) The Department of Rehabilitation.

(16) The American Institute of Planning.

The 16 members listed above shall select (1) a building contractor and (2) a member of the California building officials to serve as members of the board. Such members shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board.

Each of the appointing authorities may appoint an alternate in addition to a member. The alternate member shall serve in place of the member at such meetings of the board as the member is unable to attend. The alternate shall have all of the authority that the member would have when the alternate is attending in the place of the member.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

CHAPTER 1002

An act to amend Sections 17112.5, 17112.7, 17240, 17503, 17511, 17512, 17530, and 17530.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 17112.5 of the Revenue and Taxation Code is amended to read:

17112.5. (a) In computing—

(1) The aggregate amount of premiums or other consideration paid for the contract for purposes of Section 17103(a)(1) (relating to the investment in the contract),

(2) The consideration for the contract contributed by the employee for purposes of Section 17104(a) (relating to employee's contributions recoverable in three years), and

(3) The aggregate premiums or other consideration paid for purposes of Section 17105 (relating to certain amounts not received as an annuity),

any amount allowed as a deduction with respect to the contract under Sections 17513 to 17525, inclusive, which was paid while the employee was an employee within the meaning of Section 17502.2(a) shall be treated as consideration contributed by the employer, and there shall not be taken into account any portion of the premiums or other consideration for the contract paid while the employee was an owner-employee which is properly allocable (as determined

under regulations prescribed by the Franchise Tax Board) to the cost of life, accident, health, or other insurance.

(b) (1) This subdivision shall apply to any life insurance contract—

(A) Purchased as a part of a plan described in Section 17511, or

(B) Purchased by a trust described in Section 17501 which is exempt from tax under Section 17631 if the proceeds of such contract are payable directly or indirectly to a participant in such trust or to a beneficiary of such participant.

(2) Any contribution to plan described in paragraph (1) (A) or a trust described in paragraph (1) (B) which is allowed as a deduction under Sections 17513 to 17525, inclusive, which is determined in accordance with regulations prescribed by the Franchise Tax Board to have been applied to purchase the life insurance protection under a contract described in paragraph (1), is includible in the gross income of the participant for the taxable year when so applied.

(3) In the case of the death of an individual insured under a contract described in paragraph (1), an amount equal to the cash surrender value of the contract immediately before the death of the insured shall be treated as a payment under such plan or a distribution by such trust, and the excess of the amount payable by reason of the death of the insured over such cash surrender value shall not be includible in gross income under this chapter and shall be treated as provided in Section 17132.

(c) (1) If during any taxable year an owner-employee assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a trust described in Section 17501 which is exempt from tax under Section 17631, an individual retirement account described in Section 17530(a), an individual retirement annuity described in Section 17530(b) or any portion of the value of a contract purchased as part of a plan described in Section 17511, such portion shall be treated as having been received by such owner-employee as a distribution from such trust or as an amount received under the contract.

(2) If during any taxable year, an owner-employee receives, directly or indirectly, any amount from any insurance company as a loan under a contract purchased by a trust described in Section 17501 which is exempt from tax under Section 17631 or purchased as part of a plan described in Section 17511, and issued by such insurance company, such amount shall be treated as an amount received under the contract.

(d) (1) This subdivision shall apply—

(A) To amounts (other than any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution) which are received from a qualified trust described in Section 17501 or under a plan described in Section 17511 and which are received by an individual, who is, or has been, an owner-employee, before such individual attains the age of 59½

years, for any reason other than the individual's becoming disabled (within the meaning of subdivision (f) of this section), but only to the extent that such amounts are attributable to contributions paid on behalf of such individual (other than contributions made by him as an owner-employee) while he was an owner-employee, and

(B) To amounts which are received from a qualified trust described in Section 17501 or under a plan described in Section 17511 at any time by an individual who is, or has been, an owner-employee, or by the successor of such individual, but only to the extent that such amounts are determined, under regulations prescribed by the Franchise Tax Board, to exceed the benefits provided for such individual under the plan formula, and

(2) If a person receives an amount to which this subdivision applies, his tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 2.5 percent of the portion of the amount so received which is includible in his gross income for such taxable year.

(e) For purposes of this section, the term "owner-employee" has the meaning assigned to it by Section 17502.2(c) and includes an individual for whose benefit an individual retirement account or annuity described in Section 17530(a) or (b) is maintained.

(f) For purposes of this chapter, an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Franchise Tax Board may require.

SEC. 2. Section 17112.7 of the Revenue and Taxation Code is amended to read:

17112.7. (a) (1) This section shall apply to amounts—

(A) Distributed to a distributee, in the case of an employee's trust described in Section 17501 which is exempt from tax under Section 17631, or

(B) Paid to a payee, in the case of an annuity plan described in Section 17511,

if the total distributions or amounts payable to the distributee or payee with respect to an employee (including an individual who is an employee within the meaning of subdivision (a) of Section 17502.2) are paid to the distributee or payee within one taxable year of the distributee or payee, but only to the extent that subdivision (b) of Section 17503 or subdivision (a) of Section 17511 does not apply to such amounts.

(2) This section shall apply only to distributions or amounts paid—

(A) On account of the employee's death,

(B) With respect to an individual who is an employee without regard to subdivision (a) of Section 17502.2, on account of his separation from the service,

(C) With respect to an employee within the meaning of subdivision (a) of Section 17502.2, after he has attained the age of 59½ years, or

(D) With respect to an employee within the meaning of subdivision (a) of Section 17502.2, after he has become disabled (within the meaning of subdivision (f) of Section 17112.5).

(3) This section shall apply to amounts distributed or paid to an employee from or under a plan only if he has been a participant in the plan for five or more taxable years prior to the taxable year in which such amounts are distributed or paid.

(4) This section shall not apply to amounts described in subparagraphs (B) and (C) of paragraph (1) of subdivision (d) of Section 17112.5 (but, in the case of amounts described in subparagraph (B) of such paragraph, only to the extent that subdivision (d) of Section 17112.5 applies to such amounts).

(b) In any case to which this section applies, the tax attributable to the amounts to which this section applies for the taxable year in which such amounts are received shall not exceed whichever of the following is the greater:

(1) Five times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includible in gross income, or

(2) Five times the increase in tax which would result if the taxable income of the recipient for such taxable year equaled 20 percent of the amount of the taxable income of the recipient for such taxable year determined under paragraph (1) of subdivision (c).

(c) Notwithstanding Section 17073 (relating to definition of taxable income), for purposes only of computing the tax under this part attributable to amounts to which this section or subdivision (d) of Section 17112.5 applies and which are includible in gross income—

(1) The taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the aggregate of such amounts so includible in gross income; and

(2) In making ratable inclusion computations under paragraph (2) of subdivision (d) of Section 17112.5, the taxable income of the recipient for each taxable year involved in such ratable inclusion shall be treated as being not less than the amount required by such paragraph (2) of subdivision (d) to be treated as includible in gross income for such taxable year.

In any case in which the preceding sentence results in an increase in taxable income for any taxable year, the resulting increase in the taxes imposed by Section 17041 or 17048 for such taxable year shall not be reduced by any credit under this part which, but for this sentence, would be allowable.

(d) In the case of amounts to which this section applies which are distributed or paid with respect to an individual who is an employee without regard to subdivision (a) of Section 17502.2, subdivision (b) shall be applied with the following modifications:

(1) "Seven times" shall be substituted for "five times", and

"14⅔ percent" shall be substituted for "20 percent".

(2) Any amount which is received during the taxable year by the employee as compensation (other than as deferred compensation within the meaning of Sections 17513 to 17525, inclusive) for personal services performed for the employer in respect of whom the amounts distributed or paid are received shall not be taken into account.

(3) No portion of the total distributions or amounts payable (of which the amounts distributed or paid are a part) to which subdivision (b) of Section 17503 or subdivision (a) of Section 17511 applies shall be taken into account.

Paragraph (2) shall not apply if the employee has not attained the age of 59½ years unless he has died or become disabled (within the meaning of subdivision (f) of Section 17112.5).

SEC. 3. Section 17240 of the Revenue and Taxation Code is amended to read:

17240. (a) In the case of an individual, there is allowed as a deduction amounts paid in cash during the taxable year by or on behalf of such individual for his benefit—

(1) To an individual retirement account described in Section 17530(a),

(2) For an individual retirement annuity described in Section 17530(b), or

(3) For a retirement bond described in Section 17530.1 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of Section 17502.2(a)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subdivision (b).

(b) Limitations and Restrictions. (1) The amount allowable as a deduction under subdivision (a) to an individual for any taxable year may not exceed an amount equal to 15 percent of the compensation includible in his gross income for such taxable year, or one thousand five hundred dollars ($1,500), whichever is less.

(2) No deduction is allowed under subdivision (a) for an individual for the taxable year if for any part of such year—

(A) He was an active participant in—

(i) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(ii) An annuity plan described in Section 17511,

(iii) A qualified bond purchase plan described in Section 17526(a), or

(iv) A plan established for its employees by the United States, by a state or political division thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer for an annuity contract described in Section 17512 (whether or not his rights in such contract are nonforfeitable).

(3) No deduction is allowed under subdivision (a) with respect to any payment described in subdivision (a) which is made during the taxable year of an individual who has attained age 70½ before the close of such taxable year.

(4) No deduction is allowed under this section with respect to a rollover contribution described in Section 17503(e), 17511(e), 17530(d)(3), or 17530.1(b)(3)(C).

(5) In the case of an endowment contract described in Section 17530(b), no deduction is allowed under subdivision (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Franchise Tax Board, to the cost of life insurance.

(c) (1) For purposes of this section, the term "compensation" includes earned income as defined in Section 17502.2(b).

(2) In the case of married individuals the maximum deduction under subdivision (b) (1) shall be computed separately for each individual.

SEC. 4. Section 17503 of the Revenue and Taxation Code is amended to read:

17503. (a) Except as provided in subdivision (b), the amount actually distributed or made available to any distributee by any employees' trust described in Section 17501 which is exempt from tax under Section 17631 shall be taxable to him, in the year in which so distributed or made available, under Sections 17101 to 17112.7, inclusive (relating to annuities). The amount actually distributed or made available to any distributee shall not include net unrealized appreciation in securities of the employer corporation attributable to the amount contributed by the employee. Such net unrealized appreciation and the resulting adjustments to basis of such securities shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

(b) In the case of an employees' trust described in Section 17501, which is exempt from tax under Section 17631, if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's death or other separation from the service, or on account of the death of the employee after his separation from the service, the amount of such distribution, to the extent exceeding the amount contributed by the employee (determined by applying Section 17106), which employee contributions shall be reduced by any amount theretofore distributed to him which were not includible in gross income, shall be considered a gain from the sale or exchange of a capital asset held for more than five years.

Where such total distributions include securities of the employer corporation, there shall be excluded from such excess the net unrealized appreciation attributable to that part of the total

distributions which consists of the securities of the employer corporation so distributed. The amount of such net unrealized appreciation and the resulting adjustments to basis of the securities of the employer corporation so distributed shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

This subdivision shall not apply to distributions paid to any distributee to the extent such distributions are attributable to contributions made on behalf of the employee while he was an employee within the meaning of subdivision (a) of Section 17502.2.

(c) For purposes of this section—

(1) The term "securities" means only shares of stocks and bonds or debentures issued by a corporation with interest coupons or in registered form.

(2) The term "securities of the employer corporation" includes securities of a parent or subsidiary corporation (as defined in subdivisions (e) and (f) of Section 17535) of the employer corporation.

(3) The term "total distributions payable" means the balance to the credit of an employee which becomes payable to a distributee on account of the employee's death or other separation from the service, or on account of his death after separation from the service.

(4) The term "employee contributions," as used in this section, means the amounts contributed by the employee (determined by applying Section 17106), which employee contributions shall be reduced by amounts theretofore distributed to him which were not includible in gross income.

(d) The first sentence of subdivision (b) shall apply to a distribution paid after December 31, 1969, only to the extent that it does not exceed the sum of—

(1) The benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970, and

(2) The portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the distributee establishes does not consist of the employee's allocable share of employer contributions to the trust by which such distribution is paid.

The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this subdivision.

(e) In the case of an employees' trust described in Section 17501 which is exempt from tax under Section 17631, if—

(1) The balance to the credit of an employee is paid to him—

(A) Within one taxable year of the employee on account of a termination of the plan of which the trust is a part or a complete discontinuance of contributions under such plan, or

(B) In one or more distributions which constitute a lump-sum distribution within the meaning of Section 402(e)(4)(A) (with reference to subsection (e)(4)(H)) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(2) (A) The employee transfers all the property he receives in such distribution to an individual retirement account described in Section 17530(a), an individual retirement annuity described in Section 17530(b) (other than an endowment contract), or a retirement bond described in Section 17530.1, on or before the 60th day after the day on which he received such property, to the extent the fair market value of such property exceeds the employee contributions as defined in subparagraph (4) of subdivision (c), or

(B) The employee transfers all the property he receives in such distribution to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, or to an annuity plan described in Section 17511 on or before the 60th day after the day on which he received such property, to the extent the fair market value of such property exceeds the employee contributions as defined in subparagraph (4) of subdivision (c) and

(3) The amount so transferred consists of the property (other than money) distributed, to the extent that the fair market value of such property does not exceed the amount required to be transferred pursuant to paragraph (2),

then such distributions are not includible in gross income for the year in which paid. For purposes of this part, a transfer described in paragraph (2) (A) shall be treated as a rollover contribution as described in Section 17530(d) (3). Paragraph (2) (B) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in paragraph (1) is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan.

For purposes of paragraph (1) (A), a complete discontinuance of contributions under a plan shall be deemed to occur on the day the plan administrator notifies the Secretary of the Treasury (in accordance with regulations prescribed by the secretary) that all contributions to the plan have been completely discontinued.

SEC. 5. Section 17511 of the Revenue and Taxation Code is amended to read:

17511. Except as provided in subdivision (a), if an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of Section 17515 (whether or not the employer deducts the amounts paid for the contract under such section), the employee shall include in his gross income the amounts received under such contract for the year received as provided in Sections 17101 to 17112.7, inclusive (relating to annuities).

(a) If—

(1) An annuity contract is purchased by an employer for an employee under a plan described in the first paragraph,

(2) Such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan, and

(3) The total amounts payable by reason of an employee's death or other separation from the service, or by reason of the death of an employee after the employee's separation from the service, are paid to the payee within one taxable year of the payee,

then the amount of such payments, to the extent exceeding the amount contributed by the employee, which employee contributions shall be reduced by any amounts theretofore paid to him which were not includible in gross income, shall be considered a gain from the sale or exchange of a capital asset held for more than five years. This subdivision shall not apply to amounts paid to any payee to the extent such amounts are attributable to contributions made on behalf of the employee while he was an employee within the meaning of subdivision (a) of Section 17502.2.

(b) For purposes of subdivision (a), the term "total amounts" means the balance to the credit of an employee which becomes payable to the payee by reason of the employee's death or other separation from the service, or by reason of his death after separation from the service.

(c) Subdivision (a) shall apply to a payment paid after December 31, 1969, only to the extent it does not exceed the sum of—

(1) The benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970, and

(2) The portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the payee establishes does not consist of the employee's allocable share of employer contributions under the plan under which the annuity contract is purchased.

The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this subdivision.

(d) For purposes of this section, the term "employee" includes an individual who is an employee within the meaning of subdivision (a) of Section 17502.2, and the employer of such individual is the person treated as his employer under subdivision (d) of Section 17502.2.

(e) In the case of an employee annuity described in this section, if—

(1) The balance to the credit of an employee is paid to him—

(A) Within one taxable year of the employee on account of a termination of the plan of which such trust is a part or a complete discontinuance of contributions under such plan, or

(B) In one or more distributions which constitutes a lump-sum distribution within the meaning of Section 402(e)(4)(A) (with reference to subdivision (e)(4)(H)) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(2) (A) The employee transfers all the property he receives in such distribution to an individual account described in Section 17530(a), an individual retirement annuity described in Section 17530(b) (other than an endowment contract), or a retirement bond described in Section 17530.1, on or before the 60th day after

the day on which he received such property to the extent the fair market value of such property exceeds the amount referred to in Section 17503(c)(4), or

(B) The employee transfers all the property he receives in such distribution to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, or to an annuity plan described in this section on or before the 60th day after the day on which he received such property to the extent the fair market value of such property exceeds the amount referred to in Section 17503(c)(4), and

(3) The amount so transferred consists of the property distributed to the extent that the fair market value of such property does not exceed the amount required to be transferred pursuant to paragraph (2),

then such distribution is not includible in gross income for the year in which paid. For purposes of this part, a transfer described in paragraph (2)(A) shall be treated as a rollover contribution described in Section 17530(d). Subparagraph (2)(B) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in paragraph (1) is attributable to an annuity plan under which the employee was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan.

For purposes of paragraph (1)(A), a complete discontinuance of contributions under a plan shall be deemed to occur on the day the plan administrator notifies the Secretary of the Treasury (in accordance with regulations prescribed by the secretary) that all contributions to the plan have been completely discontinued.

SEC. 6. Section 17512 of the Revenue and Taxation Code is amended to read:

17512. (a) (1) If—

(A) An annuity contract is purchased—

(i) For an employee by an employer described in Section 23701d which is exempt from tax under Section 23701, or

(ii) For an employee (other than an employee described in clause (i) of subparagraph (A)), who performs services for an educational institution (as defined in subdivision (c) of Section 17150), by an employer which is a state, a political subdivision of a state, or an agency or instrumentality of any one or more of the foregoing,

(B) Such annuity contract is not subject to Section 17511, and

(C) The employee's rights under the contract are nonforfeitable, except for failure to pay future premiums,

then amounts contributed by such employer for such annuity contract on or after such rights become nonforfeitable shall be excluded from the gross income of the employee for the taxable year to the extent that the aggregate of such amounts does not exceed the exclusion allowance for such taxable year. The employee shall include in his gross income the amounts received under such

contract for the year received as provided in Sections 17101 to 17112.7, inclusive.

(2) For purposes of this section, the exclusion allowance for any employee for the taxable year is an amount equal to the excess, if any, of—

(A) The amount determined by multiplying 20 percent of his includible compensation by the number of years of service, over

(B) The aggregate of the amounts contributed by the employer for annuity contracts and excludible from the gross income of the employee for any prior taxable year.

(3) In the case of an employee who makes an election under Section 415(c)(4)(D) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) to have the provisions of Section 415(c)(4)(C) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to special rule for contracts purchased by educational institutions, hospitals, and home health service agencies) apply, the exclusion allowance for any such employee for the taxable year is the amount which could be contributed (under Section 415 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)) by his employer under a plan described in Section 17511 if the annuity contract for the benefit of such employee were treated as a defined contribution plan maintained by the employer.

(4) For purposes of this section, the term "includible compensation" means, in the case of any employee, the amount of compensation which is received from the employer described in subparagraph (A) of paragraph (1), and which is includible in gross income (computed without regard to subdivision (d) of Section 17139 and Section 911 of the Internal Revenue Code of 1954 as amended by P.L. 93-406) for the most recent period (ending not later than the close of the taxable year) which under paragraph (4) may be counted as one year of service. Such term does not include any amount contributed by the employer for any annuity contract to which this section applies.

(5) In determining the number of years of service for purposes of this section, there shall be included—

(A) One year for each full year during which the individual was a full-time employee of the organization purchasing the annuity for him, and

(B) A fraction of a year (determined in accordance with regulations prescribed by the Franchise Tax Board) for each full year during which such individual was a part-time employee of such organization and for each part of a year during which such individual was a full-time or part-time employee of such organization.

In no case shall the number of years of service be less than one.

(6) If for any taxable year of the employee this section applies to

two or more annuity contracts purchased by the employer, such contracts shall be treated as one contract.

(7) For purposes of this section and Section 17106 (relating to special rules for computing employees' contributions to annuity contracts), if rights of the employee under an annuity contract described in subparagraphs (A) and (B) of paragraph (1) change from forfeitable to nonforfeitable rights, then the amount (determined without regard to this subdivision) includible in gross income by reason of such change shall be treated as an amount contributed by the employer for such annuity contract as of the time such rights become nonforfeitable.

(8) (A) For purposes of this part, amounts paid by an employer described in paragraph (1) (A) to a custodial account which satisfies the requirements of Section 17502.5(b) shall be treated as amounts contributed by him for an annuity contract for his employee if the amounts are paid to provide a retirement benefit for that employee and are to be invested in regulated investment company stock to be held in that custodial account.

(B) For purposes of this part, a custodial account which satisfies the requirements of Section 17502.5(b) shall be treated as an organization described in Section 17501 solely for purposes of Sections 17631 to 17651, inclusive, with respect to amounts received by it (and income from investment thereof).

(C) For purposes of this paragraph, the term "regulated investment company" means a domestic corporation which is a regulated investment company within the meaning of Section 851(a) of the Internal Revenue Code of 1954, and which issues only redeemable stock.

(b) Premiums paid by an employer for an annuity contract which is not subject to Section 17511 shall be included in the gross income of the employee in accordance with Section 17122.7 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The preceding sentence shall not apply to that portion of the premiums paid which is excluded from gross income under subdivision (a). The amount actually paid or made available to any beneficiary under such contract shall be taxable to him in the year in which so paid or made available under Sections 17101 to 17112.7, inclusive (relating to annuities).

SEC. 7. Section 17530 of the Revenue and Taxation Code is amended to read:

17530. (a) For purposes of this section, the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

(1) Except in the case of a rollover contribution described in subdivision (d)(3), in Section 17503(e), 17511(e), or 17530.1(b)(3),

no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of one thousand five hundred dollars ($1,500) on behalf of any individual.

(2) The trustee is a bank (as defined in Section 17502.3(a)) or such other person who demonstrates to the satisfaction of the Franchise Tax Board that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

(3) No part of the trust funds will be invested in life insurance contracts.

(4) The interest of an individual in the balance in his account is nonforfeitable.

(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(6) The entire interest of an individual for whose benefit the trust is maintained will be distributed to him not later than the close of his taxable year in which he attains age 70½ years, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Franchise Tax Board, over—

(A) The life of such individual or the lives of such individual and his spouse, or

(B) A period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse.

(7) If an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence does not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6).

(b) For purposes of this section, the term "individual retirement annuity" means an annuity contract, or an endowment contract (as determined under regulations prescribed by the Franchise Tax Board), issued by an insurance company which meets the following requirements:

(1) The contract is not transferable by the owner.

(2) The annual premium under the contract will not exceed one thousand five hundred dollars ($1,500) and any refund of premiums

will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

(3) The entire interest of the owner will be distributed to him not later than the close of his taxable year in which he attains age 70½ years, or will be distributed, in accordance with regulations prescribed by the Franchise Tax Board over—

(A) The life of such owner or the lives of such owner and his spouse, or

(B) A period not extending beyond the life expectancy of such owner or the life expectancy of such owner and his spouse.

(4) If the owner dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3).

(5) The entire interest of the owner is nonforfeitable. Such term does not include such an annuity contract for any taxable year of the owner in which it is disqualified on the application of subdivision (e) or for any subsequent taxable year. For purposes of this subdivision, no contract shall be treated as an endowment contract if it matures later than the taxable year in which the individual in whose name such contract is purchased attains age 70½ years; if it is not for the exclusive benefit of the individual in whose name it is purchased or his beneficiaries; or if the aggregate annual premiums under all such contracts purchased in the name of such individual for any taxable year exceed one thousand five hundred dollars ($1,500).

(c) A trust created or organized in the United States by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees (which may include employees within the meaning of Section 17502.2(a)) for the exclusive benefit of its members or their beneficiaries, shall be treated as an individual retirement account (described in subdivision (a)), but only if the written governing instrument creating the trust meets the following requirements:

(1) The trust satisfies the requirements of paragraphs (1) through (7) of subdivision (a).

(2) There is a separate accounting for the interest of each employee or member.

The assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust.

(d) (1) Except as otherwise provided in this subdivision, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall be included in gross income by the payee or distributee, as the case may be, for the taxable year in which the payment or distribution is received. The basis of any person in such an account or annuity is zero.

(2) Paragraph (1) does not apply to any annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subdivision (b) and which is distributed from an individual retirement account. Sections 17101 to 17112.7, inclusive, apply to any such annuity contract, and for purposes of Sections 17101 to 17112.7, inclusive, the investment in such contract is zero.

(3) An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

(A) Paragraph (1) does not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to the individual for whose benefit the account or annuity is maintained if—

(i) The entire amount received (including money and any other property) is paid into an individual retirement account or individual retirement annuity (other than an endowment contract) or retirement bond for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution; or

(ii) The entire amount received (including money and other property) represents the entire amount in the account or the entire value of the annuity and no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an employees' trust described in Section 17501 which is exempt from tax under Section 17631 (other than a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan), or an annuity plan described in Section 17511 (other than a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan) and any earnings on such sums and the entire amount thereof is paid into another such trust (for the benefit of such individual) or annuity plan not later than the 60th day on which he receives the payment or distribution.

(B) This paragraph does not apply to any amount described in subparagraph (A)(i) received by an individual from an individual retirement account or individual retirement annuity if at any time during the three-year period ending on the day of such receipt such individual received any other amount described in that

subparagraph from an individual retirement account, individual retirement annuity, or a retirment bond which was not includible in his gross income because of the application of this paragraph.

(4) Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an individual retirement account or for an individual retirement annuity to the extent that such contribution exceeds the amount allowable as a deduction under Section 17240 if—

(A) Such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year.

(B) No deduction is allowed under Section 17240 with respect to such excess contribution, and

(C) Such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which received.

(5) The transfer of an individual's interest in an individual retirement account, individual retirement annuity, or retirement bond to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this part, and such interest at the time of the transfer is to be treated as an individual retirement account of such spouse, and not of such individual. Thereafter such account, annuity, or bond for purposes of this part is to be treated as maintained for the benefit of such spouse.

(e) (1) Any individual retirement account is exempt from taxation under this part unless such account has ceased to be an individual retirement account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by Section 17651 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

(2) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to and in conformance with Section 408 or 409 of the Internal Revenue Code of 1954 as amended by the Employee's Income Security Act of 1974 (P.L. 93-406), any net income attributable to the 1975 contribution shall not be includible in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(3) (A) If, during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or his beneficiary engages in any transaction prohibited by Section 4975 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) with respect to such account, such account ceases to be an individual

retirement account as of the first day of such taxable year. For purposes of this paragraph—

(i) The individual for whose benefit any account was established is treated as the creator of such account and

(ii) The separate account for any individual within an individual retirement account maintained by an employer or association of employees is treated as a separate individual retirement account.

(B) In any case in which any account ceases to be an individual retirement account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subdivision (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

(4) If during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract ceases to be an individual retirement annuity as of the first day of such taxable year. Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day.

(5) If, during any taxable year of the individual for whose benefit an individual retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

(6) If the assets of an individual retirement account or any part of such assets are used to purchase an endowment contract for the benefit of the individual for whose benefit the account is established—

(A) To the extent that the amount of the assets involved in the purchase are not attributable to the purchase of life insurance, the purchase is treated as a rollover contribution described in subdivision (d) (3), and

(B) To the extent that the amount of the assets involved in the purchase are attributable to the purchase of life, health, accident, or other insurance, such amounts are treated as distributed to that individual (but the provisions of subdivision (f) do not apply).

(7) Any common trust fund or common investment fund of individual retirement account assets which is exempt from taxation under this part does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under Section 17631 which is described in Section 17501.

(f) (1) If a distribution from an individual retirement account or under an individual retirement annuity to the individual for whose benefit such account or annuity was established is made before such individual attains age 59½ years, his tax under this article for the taxable year in which such distribution is received shall be increased by an amount equal to 2.5 percent of the amount of distribution which is includible in his gross income for such taxable year.

(2) If an amount is includible in gross income for a taxable year

under subdivision (e) and the taxpayer has not attained age 59½ before the beginning of such taxable year, his tax under this article for such taxable year shall be increased by an amount equal to 2.5 percent of such amount so required to be included in his gross income.

(3) Paragraphs (1) and (2) do not apply if the amount paid or distributed, or the disqualification of the account or annuity under subdivision (e), is attributable to the taxpayer becoming disabled within the meaning of Section 17112.5(f).

(g) For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in Section 17502.3(a)) or another person who demonstrates, to the satisfaction of the Franchise Tax Board, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subdivision (a). For purposes of this part, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

(h) The trustee of an individual retirement account and the issuer of an endowment contract described in subdivision (b) or an individual retirement annuity shall make such reports regarding such account, contract, or annuity to the Franchise Tax Board and to the individuals for whom the account, contract, or annuity is, or is to be, maintained with respect to contributions, distributions, and such other matters as the Franchise Tax Board may require under regulations. The reports required by this subdivision shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

SEC. 8. Section 17530.1 of the Revenue and Taxation Code is amended to read:

17530.1. (a) For purposes of this section and Section 17240(a), the term "retirement bond" means a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary of the Treasury of the United States or his delegate under such act—

(1) Provides for payment of interest, or investment yield, only on redemption;

(2) Provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after the date of its issuance;

(3) Provides that it ceases to bear interest, or provide investment yield on the earlier of—

(A) The date on which the individual in whose name it is purchased (hereinafter in this section referred to as the "registered owner") attains age 70½ years; or

(B) Five years after the date on which the registered owner

dies, but not later than the date on which he would have attained the age 70½ had he lived;

(4) Provides that, except in the case of a rollover contribution described in subdivision (b) (3) (C) or in Section 17503(e), 17511(e), or 17530(d) (3), the registered owner may not contribute for the purchase of such bonds in excess of fifteen hundred dollars ($1,500) in any taxable year; and

(5) Is not transferable.

(b) (1) Except as otherwise provided in this subdivision, on the redemption of a retirement bond the entire proceeds shall be included in the gross income of the taxpayer entitled to the proceeds on redemption. If the registered owner has not tendered it for redemption before the close of the taxable year in which he attains age 70½, such individual shall include in his gross income for such taxable year the amount of proceeds he would have received if the bond had been redeemed at age 70½. The provisions of Sections 17101 to 17112.7, inclusive, and Sections 18183 to 18185, inclusive (relating to bonds and other evidences of indebtedness) shall not apply to a retirement bond.

(2) The basis of a retirement bond is zero.

(3) Exceptions:

(A) If a retirement bond is redeemed within 12 months after the date of its issuance, the proceeds are excluded from gross income if no deduction is allowed under Section 17240 on account of the purchase of such bond.

(B) If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½ years, the proceeds from the redemption of the bond are excluded from the gross income of the registered owner to the extent that such proceeds were includible in his gross income for such taxable year.

(C) If a retirement bond is redeemed at any time before the close of the taxable year in which the registered owner attains age 70½ years, and the registered owner transfers the entire amount of the proceeds from the redemption of the bond to an individual retirement account described in Section 17530(a) or to an individual retirement annuity described in Section 17530(b) (other than an endowment contract) which is maintained for the benefit of the registered owner of the bond, or to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, or an annuity plan described in Section 17511 for the benefit of the registered owner, on or before the 60th day after the day on which he received the proceeds of such redemption, then the proceeds shall be excluded from gross income and the transfer shall be treated as a rollover contribution described in Section 17511(e). This subparagraph does not apply in the case of a transfer to such an employees' trust or such an annuity plan unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such an employees' trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which

the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan).

(c) (1) If a retirement bond is redeemed by the registered owner before he attains age 59½ years, his tax under this article for the taxable year in which the bond is redeemed shall be increased by an amount equal to 2.5 percent of the amount of the proceeds of the redemption includible in his gross income for the taxable year.

(2) Paragraph (1) does not apply for any taxable year during which the retirement bond is redeemed if, for that taxable year, the registered owner is disabled within the meaning of Section 17112.5(f).

(3) Paragraph (1) does not apply if the registered owner tenders the bond for redemption within 12 months after the date of its issuance.

SEC. 8.5. If Assembly Bill No. 302 and this bill are both enacted during the 1977 portion of the 1977–78 Regular Session, any section of Assembly Bill No. 302 which takes effect on or before January 1, 1978, and which amends, amends and renumbers, or repeals a section amended, amended and renumbered, or repealed by this act shall prevail over this act, whether A.B. 302 is enacted prior or subsequent to this act.

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

CHAPTER 1003

An act relating to school food.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. The Legislature finds and declares that the proper nutrition of children leads to better health and educational attainment and fewer behavior problems. Proper nutritional habits are learned in the home and in the school. It is important that learning be reinforced by good nutritional practices and that the food available to children in the schools offer the best nutritional values.

There are indications that the foods available for sale in many school districts, including the school food program, do not meet adequate nutritional standards and contribute to the development of health problems, such as dental disease, obesity, hyperactivity and other chronically debilitating diseases. These conditions have a lasting impact on both physical and social functioning.

Consequently, there is a need to study the foods offered for sale in

the schools to determine the nutritional quality of these foods and their influence on the current and future health of California's children. The study shall place special emphasis on the need to identify and eliminate low nutritional food, and shall use United States Department of Agriculture guidelines to assess nutrient food values.

SEC. 2. The Department of Education shall conduct a statewide study of foods available to children in the public schools which shall include: (a) foods available for sale on school campuses, including the school food program, and (b) eating habits of students during the schoolday. The study shall include a review of available research regarding the relationship between nutrition and student achievement, behavior, and health conducted within the state and elsewhere. The Department of Education shall recommend to the Legislature appropriate measures to ensure proper nutritional practices in the public schools. The Child Nutrition Advisory Council shall review and comment upon the design and conduct of the study and make recommendations, where appropriate, to the State Board of Education.

SEC. 3. The Department of Education shall submit its report to the Legislature by February 1, 1979. The Department of Education shall submit its report to the State Board of Education for review and approval prior to submission to the Legislature.

SEC. 4. The State Department of Health shall cooperate in this study and furnish such information as requested by the Department of Education.

CHAPTER 1004

An act to amend Section 231 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 231 of the Revenue and Taxation Code is amended to read:

231. (a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of "charitable purposes" in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California if:

(1) All of the provisions of Section 214 are complied with, except subdivision (6). For purposes of subdivision (6) of Section 214, irrevocable dedication to charitable purpose shall be deemed to exist

if the lease provides that the property shall be transferred in fee to the entity of government leasing the same upon the sooner of either the liquidation, dissolution, or abandonment of the owner or at the time the last rental payment is made under the provisions of the lease.

(2) All of the provisions of Section 254.5 relating to owners are complied with, commencing during calendar year 1969.

(3) All of the provisions of Section 214.01 are complied with by March 15, 1970.

(b) As used in this section "property" means:

(1) Any building or structure of a kind or nature which is uniquely of a governmental character and includes, but is not limited to, the following:

(A) City halls.

(B) Courthouses.

(C) Administration buildings.

(D) Police stations, jails, or detention facilities.

(E) Fire stations.

(F) Parks or playgrounds.

(G) Hospitals.

(H) Water systems and waste water facilities.

(2) Any other property required for the use and occupation of the buildings and leased to government.

(3) Any possessory interest of the nonprofit corporation in property and in the land upon which the property was constructed and so much of the surrounding land that is required for the use and occupation of the property.

(4) Any building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building when such building and equipment is being constructed for the sole purpose of being leased to government to lessen its burden.

"Uniquely of a governmental character" means the property, except hospitals, water systems, and waste water facilities, is not intended to produce income or revenue in the form of rents or admission, user or service fees, or charges.

(c) As used in this section "property" does not include any possessory interest of any person or organization not exempt from taxation.

(d) As used in this section "nonprofit corporation" means a community chest, fund, foundation or corporation, not conducted for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and such nonprofit corporation is organized and operated for the sole purpose of leasing property to government and to lessen the burden of government and, in fact, only leases property to government. Such nonprofit corporation shall qualify as an exempt organization under Section 23701f of this code or Section 501(c)(4) of the Internal Revenue

Code of 1954. This subdivision is not intended to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(4) of the Internal Revenue Code of 1954 but not otherwise qualified for the "welfare exemption" under this section. Nonprofit corporations meeting the tests of this subdivision are deemed to be organized and operated for charitable purposes.

(e) As used in this section "government" means the State of California, a city, city and county, county, public corporation, and a hospital district.

(f) The exemption provided for in this section shall be deemed to be within the "welfare exemption" for purposes of Section 251.

(g) For leases first entered into by and between government and nonprofit corporation on or after January 1, 1969, all requirements of this section shall be met for the property and the nonprofit corporation to qualify for the exemption provided by this section.

(h) For leases first entered into by and between government and nonprofit corporation on or before December 31, 1968, all requirements of this section shall be met except that the last unnumbered paragraph of subdivision (b) shall not apply and for the purposes of subdivision (b)(1) the list of real property qualifying for this exemption includes community recreation buildings or facilities, golf courses, airports, water, sewer and drainage facilities, music centers and their related facilities, and public parking incidental to and in connection with one of the buildings or structures set forth in this section.

(i) Property exempt under this section shall be located within the boundaries of the entity of government leasing the same.

(j) Where the construction has commenced on or after January 1, 1969, improvements shall be advertised and put to competitive bid to qualify for the exemption provided by this section.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to carry out the program specified in this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act be applied with regard to the fiscal year commencing during the 1978 calendar year, this act must go into effect immediately.

CHAPTER 1005

An act to amend Section 39313 of the Education Code, relating to tax rates, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 39313 of the Education Code is amended to read:

39313. (a) Unless the time allowed for the governing board to enter into the lease agreement is extended pursuant to subdivision (b), if the governing board of the district fails to enter into a lease pursuant to this article within three years after an election, held pursuant to Section 39308, at which a majority of the votes cast favors the proposition submitted, the authorization for an increase in the maximum tax rate shall become void.

(b) If litigation is filed challenging in any way the election held pursuant to Section 39308 or the competitive bidding proceedings or contract for the construction of the building to be used by the district; compliance with the California Environmental Quality Act; or the validity of or the proceedings for the issuance of any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation to be sold to finance construction of such building, the authorization for an increase in the maximum tax rate shall not become void because of the failure of the governing board to enter into a lease pursuant to this article until three years after the date upon which this subdivision becomes effective.

This subdivision shall apply only to school districts which had an average daily attendance of 65,000 or more in the 1975–76 fiscal year.

SEC. 2. This act shall operate retroactively to the extent that it shall apply even if the election was held, or the litigation was begun, or both, before the effective date of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In 1974 in at least two school districts in the state, the voters approved an increase in the maximum tax rate in order to permit the governing board to enter into a lease agreement for badly needed property. Litigation has begun and the governing board cannot now complete the agreement. Unless this act becomes operative before the close of 1977, the approval given by the voters will become void, and the district will be forced to incur the expense of another election in order to complete the agreement, once a final determination of the litigation has been made. In order to avoid this

unfortunate result, it is necessary that this act take effect immediately.

CHAPTER 1006

An act to add Chapter 10.5 (commencing with Section 25910) to Division 15 of the Public Resources Code, relating to energy conservation.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Chapter 10.5 (commencing with Section 25910) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 10.5. INSULATION STANDARDS

Article 1. Intent

25910. It is the intent of the Legislature that in order to help meet future electrical and gas requirements at the least cost with the greatest reliability to the people of the state, it is necessary to immediately implement insulation programs regulated by the standards set forth in this chapter.

Article 2. Definitions

25915. (a) "Approved testing lab" means any testing facility which is determined by rule and regulation of the commission to have adequate personnel and expertise to carry out the testing of such systems.

(b) "Insulation material" means any material placed within or contiguous to a wall, ceiling, or floor of a room or building, or contiguous to the surface of any appliance or its intake or outtake mechanism, for the purpose of reducing heat transfer and thus the electrical or gas energy requirements for heating or cooling the building or operating the appliance, or reducing adverse temperature fluctuations of the building, room, or appliance.

(c) "R-value" means a measure of thermal resistance of material or composite materials. "R-value" as used here is equal to the reciprocal of the conductance of a given material, or

$$\text{R-value} = \frac{1}{\text{conductance of the material}}$$

where the conductance of the material is: Btu (hour × square foot × Fahrenheit degree average temperature difference between two surfaces).

Article 3. Regulation

25920. The commission shall, by regulation adopted no later than July 1, 1978, establish insulation material standards governing the quality of all insulation material sold or installed within the state, including those properties that affect the safety and thermal performance of insulation material during application and in the use intended. Such standards shall specify the initial performance of the insulation material and the performance expected during the design life of the insulation material.

25921. One year after the date of adoption of such standards and testing criteria and procedures, no insulation material shall be sold or installed in the state which is not certified by the manufacturer to have been tested in accordance with such standards and which does not bear a visible, commission-approved seal certifying that the insulation material meets such standards and has been tested and approved by an approved testing laboratory. Such testing procedures should be designed to determine whether insulation materials have met or exceeded minimum established standards.

25922. The commission shall, by regulation adopted no later than July 1, 1978, establish minimum standards for the amount of additional insulation (expressed in terms of R-value) installed in existing buildings. One year after the adoption of such standards, no insulation shall be installed in any existing building by a contractor unless the contractor certifies to the customer in writing that the amount of insulation (expressed in terms of R-value) meets or exceeds the minimum amount established by the standards. Such minimum standards may vary for different types of buildings or building occupancies and different climate zones in the state. Such minimum standards shall be economically feasible in that the resultant savings in energy procurement costs shall be greater than the cost of the insulation to the customer amortized over the useful life of the insulation.

Article 4. Procedure

25925. Prior to establishing the standards and procedures required by this chapter, the commission shall conduct at least two public hearings, and shall invite the State Fire Marshal, manufacturers, distributors, and licensed installers of insulation materials, and any appropriate members of the public to participate in the hearings. Immediately upon adoption of the standards and procedures, the commission shall provide a copy of the standards to the Contractors' State License Board. Within 30 days after receipt of

the commission's standards, the board shall notify all state licensed contractors who install insulation of the standards.

Article 5. Inspection and Compliance

25926. After one year following the adoption of these standards, the commission may conduct periodic inspections of manufacturers, distributors, and retailers of insulation material sold within the state in order to determine their compliance with this article. The commission may also conduct independent performance tests of insulation materials sold in the state, in order to determine compliance with its adopted standards.

25931. Any person who violates or proposes to violate this article may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice which violates any provision of this chapter.

Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon his or her own motion or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, city attorney, or city prosecutor in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the commission, the court shall determine the reasonable expenses incurred by the commission in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the commission shall be paid to the State Treasurer.

CHAPTER 1007

An act to amend Sections 41312, 41360, and 42031 of the Health and Safety Code, relating to housing.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 41312 of the Health and Safety Code is amended to read:

41312. For its activities under this division the president shall prepare a preliminary budget on or before December 1 of each year for the ensuing fiscal year to be reviewed by the Secretary of the Business and Transportation Agency, the Director of Finance, and the Joint Legislative Budget Committee. An analysis of the agency's proposed budget prepared by the Joint Legislative Budget Committee, together with any comments of the committee, shall be transmitted to the chairpersons of the fiscal committee of each house of the Legislature and to the chairperson of the board prior to the board's final adoption of the agency's budget.

SEC. 2. Section 41360 of the Health and Safety Code is amended to read:

41360. The California Housing Finance Fund is hereby created in the State Treasury.

Construction loan funds may be transferred to the construction lender or to the contractor as necessary to meet draws for progress payments pursuant to rules and regulations of the agency.

All money in the fund is hereby continuously appropriated to the agency for carrying out the purposes of this part, and, notwithstanding the provisions of Chapter 2 (commencing with Section 12850) of Part 2.5 of Division 3 of Title 2 of the Government Code or the provisions of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of such division, or the provisions of Sections 11032 and 11033 of the Government Code, application of the fund shall not be subject to the supervision or budgetary approval of any other officer or division of state government. However, the agency's budget shall be reviewed as provided in Section 41312. The agency may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, and redemption premiums on, bonds issued pursuant to this part, and, for such purpose or as necessary or convenient to the accomplishment of any other purpose of the agency, may divide the fund into separate accounts. All moneys accruing to the agency pursuant to this part from whatever source shall be deposited in the fund.

SEC. 3. Section 42031 of the Health and Safety Code is amended to read:

42031. Notwithstanding the provisions of Chapter 2 (commencing

with Section 12850) of Part 2.5 of Division 3 of Title 2 of the Government Code or the provisions of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of such division, application of the insurance fund shall not be subject to the supervision or budgetary approval of any other officer or division of state government. However, the agency's budget respecting such fund shall be reviewed as provided in Section 41312.

SEC. 4. Sections 1, 2, and 3 of this act shall not become operative if Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature is chaptered and becomes effective January 1, 1978, and adds Sections 50913, 51000, and 51654 to the Health and Safety Code incorporating the changes which would be made by this act.

CHAPTER 1008

An act to add and repeal Chapter 5 (commencing with Section 16000) to Division 11 of the Elections Code, relating to elections.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. The Legislature hereby finds and declares that the full effects of the use of central counting places cannot be realized unless early collection and processing of ballots is permitted. Because of the uncertainty of the benefits which may be realized by permitting early collection and processing of ballots in those counties utilizing central counting places, a pilot program is needed to determine the desirability of adopting a statewide authorization for such a program. Since both the County of Riverside and the County of San Diego have shown their willingness to participate in such a program, and have each passed a resolution in support of early collection and processing of ballots, the County of Riverside and the County of San Diego are hereby authorized to conduct pilot programs pursuant to the provisions of Chapter 5 (commencing with Section 16000) of Division 11 of the Elections Code.

SEC. 2. Chapter 5 (commencing with Section 16000) is added to Division 11 of the Elections Code, to read:

CHAPTER 5. EARLY PICKUP AND PROCESSING OF BALLOTS

16000. In those counties in which ballots are tabulated at a central counting place pursuant to this division and Division 12 (commencing with Section 17050), the election board may authorize the clerk to collect and process, but not to tabulate, the voted ballots of certain designated precincts prior to the close of the polls in the manner set forth in this chapter.

16001. The time for the collection of the voted ballots and the selection of the participating precincts shall be at the discretion of the county clerk.

16002. The commission shall prescribe, by regulation, the procedures to be followed in the early collection and processing of ballots.

16003. All ballot-handling functions performed between the polling place and central counting place shall be performed by teams of at least two persons. Each such person shall meet the qualifications required of a member of a precinct board and shall execute a declaration of intention to faithfully execute the duties of a precinct board member as set forth in Section 1637.

16004. The regulations of the commission shall provide a system by which all persons who handle ballots, and the number of ballots transferred from place to place, may be identified.

16005. The regulations of the commission may authorize the use of more than one ballot box or ballot container.

16006. The regulations of the commission may authorize persons other than precinct boards to process ballots and certify the number of ballots processed, cancelled, spoiled or duplicated.

16007. The regulations of the commission shall provide for the protection of the secrecy of the ballot and the prevention of premature release and tabulation of the results.

SEC. 3. The provisions of Chapter 5 (commencing with Section 16000) of Division 11 of the Elections Code shall only apply to the County of Riverside and the County of San Diego.

SEC. 4. This act shall only be operative until January 1, 1982, and as of such date is repealed.

CHAPTER 1009

An act to amend Sections 8200, 8201, 8202.5, 8203.1, 8203.4, 8204, 8205, 8206, 8207, 8209, 8212, 8213, 8213.5, 8214, 8214.1, and 12197.1 of, to add Sections 8201.1, 8214.3, 8214.4, 8214.5, 8220, 8221, 8222, 8223, 8224, 8224.1, 8225, 8227.1, 8228, and 8230 to, and to repeal Sections 8202, 8202.6, 8210, 8214.2, and 8215 of, the Government Code, relating to notaries public.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 8200 of the Government Code is amended to read:

8200. The Secretary of State may appoint and commission notaries public in such number as the Secretary of State deems necessary for the public convenience. Notaries public may act as such notaries in any part of this state.

SEC. 2. Section 8201 of the Government Code is amended to read:

8201. Every person appointed as notary public shall:

(a) Be at the time of appointment a legal resident of this state, except as otherwise provided in Section 8203.1.

(b) Be not less than 18 years of age.

(c) Have satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions of the office of notary public. All questions shall be based on the law of this state as set forth in the booklet of the laws of California relating to notaries public distributed by the Secretary of State.

SEC. 3. Section 8201.1 is added to the Government Code, to read:

8201.1. Prior to granting an appointment as a notary public, the Secretary of State shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. To assist in determining the identity of the applicant and whether the applicant has been convicted of a disqualifying crime specified in subdivision (b) of Section 8214.1, the Secretary of State shall require that applicants be fingerprinted.

SEC. 4. Section 8202 of the Government Code is repealed.

SEC. 5. Section 8202.5 of the Government Code is amended to read:

8202.5. The Secretary of State may appoint and commission such number of state, county, and public school district employees as notaries public to act for and on behalf of the governmental entity for which appointed as the Secretary of State deems proper. Whenever such a notary is appointed and commissioned, a duly authorized representative of the employing governmental entity shall execute a certificate that the appointment is made for the purposes of the employing governmental entity, and whenever such certificate is filed with any state or county officer, no fees shall be charged by the officer for the filing or issuance of any document in connection with such appointment.

The state or any county or school district for which the notary public is appointed and commissioned pursuant to this section may pay from any funds available for its support the premiums on any bond and the cost of any stamps, seals or other supplies required in connection with the appointment, commission or performance of the duties of such notary public.

Any fees collected or obtained by any notary public whose documents have been filed without charge and for whom bond premiums have been paid by the employer of the notary public shall be remitted by such notary public to the employing agency which shall deposit such funds to the credit of the fund from which the salary of the notary public is paid.

SEC. 6. Section 8202.6 of the Government Code is repealed.

SEC. 7. Section 8203.1 of the Government Code is amended to read:

8203.1. The Secretary of State may appoint and commission notaries public for the military and naval reservations of the Army, Navy, Coast Guard, Air Force, and Marine Corps of the United States, wherever located in the state; provided, however, that such appointee shall be a citizen of the United States, not less than 18 years of age, and must meet the requirements set forth in subdivision (c) of Section 8201.

SEC. 8. Section 8203.4 of the Government Code is amended to read:

8203.4. The term of office shall be as set forth in Section 8204, except that the appointment shall terminate if the person shall cease to be employed as a federal civil service employee at the reservation for which appointed. The commanding officer of the reservation shall notify the Secretary of State of termination of employment at the reservation for which appointed within 30 days of such termination. A notary public whose appointment terminates pursuant to this section will have such termination treated as a resignation.

SEC. 9. Section 8204 of the Government Code is amended to read:

8204. The term of office of a notary public is for four years commencing with the date specified in the commission.

SEC. 10. Section 8205 of the Government Code is amended to read:

8205. (a) It is the duty of a notary public, when requested:

(1) To demand acceptance and payment of foreign and inland bills of exchange, or promissory notes, to protest them for nonacceptance and nonpayment, and to exercise such other powers and duties as by the law of nations and according to commercial usages, or by the laws of any other state, government, or country, may be performed by notaries.

(2) To take the acknowledgment or proof of powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing executed by any person, and to give a certificate of such proof or acknowledgment, endorsed on or attached to the instrument. Such certificate shall be signed by the notary public in the notary public's own handwriting.

(3) To take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before any court, judge, officer, or board. Any deposition, affidavit, oath or affirmation shall be signed by the notary public in the notary public's own handwriting.

(b) It shall further be the duty of a notary public, upon written request:

(1) To furnish to the Secretary of State certified copies of the notary's journal.

(2) To respond within 30 days of receiving written requests sent by certified mail from the Secretary of State's office for information relating to official acts performed by the notary.

SEC. 11. Section 8206 of the Government Code is amended to read:

8206. A notary public shall keep a sequential journal of all official acts performed as a notary public. Such journal shall be in addition to and apart from any copies of notarized documents which may be in the possession of the notary public and shall include:

(a) Date, time and type of each official act.

(b) Character of every instrument acknowledged or proved before the notary.

(c) The signature of each person whose signature is being notarized.

(d) The type of information used to verify the identity of the parties whose signatures are being acknowledged.

(e) The fee charged for the notarial service.

When requested, and upon payment of not more than thirty cents ($0.30) per page, a notary public shall provide to any person on request a certified copy of any page from the journal.

SEC. 12. Section 8207 of the Government Code is amended to read:

8207. A notary public shall provide and keep an official seal, which shall clearly show, when embossed, stamped, impressed or affixed to a document, the name of the notary, the State Seal, the words "Notary Public" and the name of the county wherein the bond and oath of office are filed, and the date the notary public's commission expires. The notary public shall authenticate with the official seal all official acts.

A notary public shall not use the official notarial seal except for the purpose of carrying out the duties and responsibilities as set forth in this chapter. A notary public shall not use the title "notary public" except for the purpose of rendering notarial service.

The seal of every notary public shall be affixed by a seal press or stamp that will print or emboss a seal which legibly reproduces under photographic methods the required elements of the seal. The seal may be circular not over two inches in diameter, or may be a rectangular form of not more than an inch in width by two inches and one-half in length, with a serrated or milled edged border, and shall contain the information required by this section.

SEC. 13. Section 8209 of the Government Code is amended to read:

8209. If any notary public resigns, is disqualified, removed from office, or allows his appointment to expire without obtaining reappointment within 30 days, all notarial records and papers shall be delivered within 30 days to the clerk of the county in which the notary public's current official oath of office and bond are on file. In the case of the death of a notary public, the personal representative of the deceased shall promptly notify the Secretary of State of the death of the notary public and shall deliver all notarial records and papers of the deceased to the clerk of the county in which the notary public's official oath of office and bond are on file. After 10 years from

the date of deposit with the county clerk, if no request for, or reference to such records has been made, they may be destroyed upon order of court.

If such notary public shall willfully refuse to deliver all notarial records and papers to the county clerk within 30 days, such person shall be guilty of a misdemeanor and shall be personally liable for damages to any person injured by such action or inaction.

SEC. 14. Section 8210 of the Government Code is repealed.

SEC. 15. Section 8212 of the Government Code is amended to read:

8212. Every person appointed a notary public on or after January 1, 1978, shall execute an official bond in the sum of ten thousand dollars ($10,000). Unless the bond is executed by an admitted surety insurer, it shall be approved by a judge of the superior court of the county in which the appointed person maintains his or her principal place of business.

SEC. 16. Section 8213 of the Government Code is amended to read:

8213. No later than 30 days after the beginning of the term prescribed in the commission, every person appointed a notary public shall file an official bond, and take, subscribe, and file an oath of office in the office of the county clerk of the county within which the person maintains a principal place of business as shown in the application submitted to the Secretary of State, and the commission shall not take effect unless this is done within the 30-day period. Upon filing the oath and bond, the county clerk shall forthwith transmit to the Secretary of State a certificate setting forth the fact of such filing and containing a copy of the official oath, personally signed by the notary public in the form set forth in the commission and shall forthwith deliver the bond to the county recorder for recording.

If a notary public transfers the principal place of business from one county to another, the notary public may file a new oath of office and bond, or a duplicate of the original bond with the county clerk to which the principal place of business was transferred. If the notary public elects to make such a new filing, such notary public shall, within 30 days of such filing, obtain an official seal which shall include the name of the county to which the notary public has transferred. In such a case, the same filing and recording fees are applicable as in the case of the original filing and recording of the bond.

A recording fee of three dollars ($3) shall be paid by the person appointed a notary public. Such fee may be paid to the county clerk who shall transmit it to the county recorder.

The county recorder shall record the bond and return it to the county clerk who shall keep the bond for one year following the expiration of the term of the commission for which the bond was issued after which said bond may be disposed of. Such disposition shall not affect the time for commencement of actions on the bond. A certified copy of the record of the official bond with all affidavits, acknowledgments, endorsements and attachments, may be read in

evidence with like effect as the original thereof, without further proof.

SEC. 17. Section 8213.5 of the Government Code is amended to read:

8213.5. A notary public shall notify the Secretary of State by certified mail within 30 days as to any change in the location or address of the principal place of business.

SEC. 18. Section 8214 of the Government Code is amended to read:

8214. For the official misconduct or neglect of a notary public, the notary public and the sureties on the notary public's official bond are liable in a civil action to the persons injured thereby for all the damages sustained. Any recovery in such action which does not exhaust the full amount of the bond shall not be a bar to any further action for other causes up to the full amount of the bond.

SEC. 19. Section 8214.1 of the Government Code is amended to read:

8214.1. The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(a) Substantial and material misstatement or omission in the application submitted to the Secretary of State.

(b) Conviction of a felony or of a lesser offense involving moral turpitude or of a nature incompatible with the duties of a notary public. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(c) Revocation, suspension, restriction, or denial of a professional license, if such revocation, suspension, restriction, or denial was for misconduct, dishonesty, or any cause substantially relating to the duties or responsibilities of a notary public.

(d) Failure to fully and faithfully discharge any of the duties or responsibilities required of a notary public.

(e) When adjudged liable for damages in any suit grounded in fraud, misrepresentation or violation of the state regulatory laws or in any suit based upon a failure to discharge fully and faithfully the duties as a notary public.

(f) The use of false or misleading advertising wherein the notary public has represented that the notary public has duties, rights or privileges that he or she does not possess by law.

(g) The practice of law in violation of Section 6125 of the Business and Professions Code.

(h) Charging more than the fees prescribed by this chapter.

(i) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another.

(j) Failure to complete the acknowledgment at the time the notary's signature and seal are affixed to the document.

(k) Failure to administer the oath or affirmation as required by paragraph (3) of subdivision (a) of Section 8205.

(*l*) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(m) Violation of Section 8223.

SEC. 20. Section 8214.2 of the Government Code is repealed.

SEC. 21. Section 8214.3 is added to the Government Code, to read:

8214.3. Prior to a revocation or suspension pursuant to this chapter or after a denial of a commission, the person affected shall have a right to a hearing on the matter and such proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title, except that a person shall not have a right to a hearing after a denial of an application for a notary public commission in either of the following cases:

(a) The Secretary of State has, within one year previous to the application, and after proceedings conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title, denied or revoked such applicant's application or commission.

(b) The Secretary of State has entered an order pursuant to Section 8214.4 finding that the applicant has committed or omitted acts constituting grounds for suspension or revocation of a notary public's commission.

SEC. 22. Section 8214.4 is added to the Government Code, to read:

8214.4. Notwithstanding any provision of this chapter or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title, if the Secretary of State determines, after proceedings conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of this title, that any notary public has committed or omitted acts constituting grounds for suspension or revocation of a notary public's commission, the resignation or expiration of the notary public's commission shall not bar the Secretary of State from instituting or continuing an investigation or instituting disciplinary proceedings. Upon completion of such disciplinary proceedings, the Secretary of State shall enter an order finding the facts and stating the conclusion that the facts would or would not have constituted grounds for suspension or revocation of the commission if the commission had still been in effect.

SEC. 23. Section 8214.5 is added to the Government Code, to read:

8214.5. Whenever the Secretary of State revokes the commission of any notary public, the Secretary of State shall file with the county clerk of the county in which the notary public's principal place of business is located a copy of the revocation. The county clerk shall note such revocation and its date upon the original record of such certificate.

SEC. 24. Section 8215 of the Government Code is repealed.

SEC. 25. Section 8220 is added to the Government Code, to read:

8220. The Secretary of State may adopt rules and regulations to carry out the provisions of this chapter.

The regulations shall be adopted in accordance with the

Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of this title.

SEC. 26. Section 8221 is added to the Government Code, to read:

8221. If any person shall knowingly destroy, deface, or conceal any records or papers belonging to the office of a notary public, such person shall be guilty of a misdemeanor and be liable in a civil action for damages to any person injured as a result of such destruction, defacing, or concealment.

SEC. 27. Section 8222 is added to the Government Code, to read:

8222. Whenever it shall appear to the Secretary of State that any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or any rule or regulation prescribed under the authority thereof, the Secretary of State may apply for an injunction, and upon a proper showing, any court of competent jurisdiction shall have power to issue a permanent or temporary injunction or restraining order without bond to enforce the provisions of this chapter, and any party to such action shall have the right to prosecute an appeal from the order or judgment of the court.

The court may order a person subject to an injunction or restraining order provided for in this section to reimburse the Secretary of State for expenses incurred in the investigation related to the petition.

The Secretary of State shall refund any amount received as reimbursement should the injunction or restraining order be dissolved by an appellate court.

SEC. 28. Section 8223 is added to the Government Code, to read:

8223. No notary public who holds himself or herself out as being an immigration specialist, immigration consultant or any other title or description reflecting an expertise in immigration matters shall advertise in any manner whatsoever that he or she is a notary public.

SEC. 29. Section 8224 is added to the Government Code, to read:

8224. A notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction.

For purposes of this section, a notary public has a direct financial or beneficial interest in a transaction if the notary public:

(a) With respect to a financial transaction, is named, individually, as a principal to the transaction.

(b) With respect to real property, is named, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee, to the transaction.

For purposes of this section, a notary public has no direct financial or beneficial interest in a transaction where the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow, or lender for a person having a direct financial or beneficial interest in the transaction.

SEC. 30. Section 8224.1 is added to the Government Code, to read:

8224.1. A notary public shall not take the acknowledgment or proof

of instruments of writing executed by the notary public nor shall depositions or affidavits of the notary public be taken by the notary public.

SEC. 31. Section 8225 is added to the Government Code, to read:

8225. Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing such act to be an improper notarial act shall be guilty of a misdemeanor.

SEC. 32. Section 8227.1 is added to the Government Code, to read:

8227.1. It shall be a misdemeanor for any person who is not a duly commissioned, qualified, and acting notary public for the State of California to do any of the following:

(a) Represent or hold himself or herself out to the public or to any person as being entitled to act as a notary public.

(b) Assume, use or advertise the title of notary public in such a manner as to convey the impression that the person is a notary public.

(c) Purport to act as a notary public.

SEC. 33. Section 8228 is added to the Government Code, to read:

8228. The Secretary of State may enforce the provisions of this chapter through the examination of a notary public's books, records, letters, contracts, and other pertinent documents relating to the official acts of the notary public.

SEC. 34. Section 8230 is added to the Government Code, to read:

8230. If a notary public executes a jurat and the statement sworn or subscribed to is contained in a document purporting to identify the affiant, and includes the birthdate or age of the person and a purported photograph or finger or thumbprint of the person so swearing or subscribing, the notary public shall require, as a condition to executing the jurat, that the person verify the birthdate or age contained in the statement by showing either:

(a) A certified copy of the person's birth certificate, or

(b) An identification card or driver's license issued by the Department of Motor Vehicles.

For the purposes of preparing for submission of forms required by the United States Immigration and Naturalization Service, and only for such purposes, a notary public may also accept for identification any documents or declarations acceptable to the United States Immigration and Naturalization Service.

SEC. 35. Section 12197.1 of the Government Code is amended to read:

12197.1. The Secretary of State shall establish by regulation an application and commission fee which shall be sufficient to cover the costs of commissioning notaries public and the enforcement of laws governing notaries public. Such fee shall not exceed fifteen dollars ($15) per commission. It is the intention of the Legislature that such funds, which are to be deposited in the General Fund, will be used to support the notary public program to the extent that appropriations are made in the Budget Act from year to year

SEC. 36. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1010

An act to amend Section 15606 of the Government Code, and to amend Section 1603 of the Revenue and Taxation Code, relating to county tax equalization hearing procedures.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 15606 of the Government Code is amended to read:

15606. The State Board of Equalization shall:

(a) Prescribe rules for its own government and for the transaction of its business.

(b) Keep a record of all its proceedings.

(c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing.

(d) Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.

(e) Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt such instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain such uniformity.

(f) Subdivisions (c), (d) and (e) in this section shall include, but are not limited to, rules, regulations, instructions and forms relating to classifications of kinds of property and evaluation procedures. All rules and regulations adopted by the board pursuant to subdivision (c) shall be adopted, on and after January 1, 1968, pursuant to the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of this division.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel

an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c) of this section, governing the assessment or taxation of property. The Attorney General shall represent the board in such action. The provisions of this section are mandatory.

SEC. 2. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) In the case of a county of the first class, the application shall be filed between the third Monday in July and September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed between the third Monday in July and September 15.

(c) In the case of a county of the second to ninth class, inclusive, the application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15.

(d) In all other counties, the application shall be filed between July 2 and August 26. An application that is mailed and postmarked August 26 or earlier within such period shall be deemed to have been filed between July 2 and August 26.

(e) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

SEC. 3. This act shall become operative on July 1, 1978.

CHAPTER 1011

An act to add Section 16317.5 to the Government Code, relating to state funds.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

The people of the State of California do enact as follows

SECTION 1. Section 16317.5 is added to the Government Code, to read:

16317.5. No state funds or employee activities financed by the state shall, directly or indirectly, be used for accounting of, or authorizing the disbursement of, any funds of any state agency, except through accounts approved by the Department of Finance. Such funds shall be reported in official financial statements by the Department of Finance. The accounting of nonstate funds shall be exempt from this section if such accounting is a part of an investigation in which the state is involved.

CHAPTER 1012

An act to amend Sections 10575 and 10605 of, and to add Sections 10038, 10575.5, and 10584 to, and to repeal Article 7 (commencing with Section 10460) of Chapter 8 of Division 9 of, the Health and Safety Code, relating to vital statistics.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 10038 is added to the Health and Safety Code, to read:

10038. On and after January 1, 1978, whenever the State Registrar receives a death certificate from a local registrar, the State Registrar shall determine whether the state records contain the birth certificate of the deceased or a microfilm copy thereof. If the State Registrar has such a record of birth, it shall be revised to indicate the date of the death of the registrant, or, alternatively, a notation to such effect shall be entered in the State Registrar's index of births adjacent to the name of the deceased. The State Registrar, pursuant to an ongoing program, shall distribute, without charge, on a monthly basis to each county, a list of deceased registrants to enable local registrars and recorders to update their files. Upon receipt of such a list the local registrar or county recorder shall revise the local records or indexes accordingly.

Subject to the availability of funds appropriated for such purpose, the State Registrar may similarly revise or index birth records of registrants whose death certificates were filed prior to January 1, 1978.

SEC. 2. Article 7 (commencing with Section 10460) of Chapter 8 of Division 9 of the Health and Safety Code is repealed.

SEC. 3. Section 10575 of the Health and Safety Code is amended to read:

10575. The State Registrar, local registrar or county recorder shall, upon request and payment of the required fee, supply to any

applicant a certified copy of the record of any birth, fetal death, death, marriage, or marriage dissolution registered with him.

When the original forms of certificates of live birth furnished by the State Registrar contain a printed section at the bottom entitled "Medical and Health Data," that section shall not be reproduced in a certified copy of the record except when specifically requested.

SEC. 4. Section 10575.5 is added to the Health and Safety Code, to read:

10575.5. Prior to issuing a certified copy of a birth record, the State Registrar, local registrar, or county recorder shall determine whether their respective birth records or index to such records have been revised pursuant to Section 10038 to indicate the death of the registrant whose birth record is requested. If such records or index have been so revised, the certified copy provided the applicant shall display the legend "DECEASED," which shall be indelibly printed or stamped, in boldface style not less than one-half inch in height, within near proximity to the space reserved for the registrant's name. The State Registrar shall adopt regulations to implement this section.

SEC. 5. Section 10584 is added to the Health and Safety Code, to read:

10584. Certified copies or certification of abstract information required to be filed under authority of Chapter 6.5 (commencing with Section 10360) in the offices of the State Registrar and county clerks shall not include information relative to occupation, highest school grade completed, color or race, religious denomination, previous marriages ended by death, divorce or annulment, or children.

SEC. 6. Section 10605 of the Health and Safety Code is amended to read:

10605. A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a birth, fetal death, death, marriage, or marriage dissolution record.

Each local registrar or county recorder collecting a fee pursuant to this section shall transmit fifty cents ($0.50) for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

SEC. 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act authorizes a revenue source, or makes local governments eligible for a revenue source, that may be utilized by local governments to cover the cost of the mandate.

CHAPTER 1013

An act to amend Sections 2 and 4 of Chapter 5 of the Statutes of 1977, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 2 of Chapter 5 of the Statutes of 1977 is amended to read:

Sec. 2. (a) Any county that, before March 1, 1977, has not paid its apportionment for the 1976–77 fiscal year, in full, to the South Coast Air Quality Management District pursuant to Article 7 (commencing with Section 40520) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code shall be liable to the state for reimbursement of any amount disbursed from the funds appropriated by this act that represents the unpaid portion of its apportionment.

(b) With respect to any county subject to this section that, on July 1, 1977, has not reimbursed the state the amount disbursed from the funds appropriated by this act for the purpose of paying its unpaid apportionment, the Director of Finance shall order that a sum equal to such amount be withheld from revenues collected by the state for that county pursuant to its sales and use tax ordinance and shall cause that sum to be deposited in the General Fund.

SEC. 2. Section 4 of Chapter 5 of the Statutes of 1977 is amended to read:

Sec. 4. If any county reimburses the state prior to July 1, 1977, any sum for any amount disbursed pursuant to Section 1, the Director of Finance shall cause that amount to be deposited in the General Fund.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Inasmuch as certain revenues collected for the county will be withheld by the state on July 1, 1977, pursuant to Chapter 5 of the Statutes of 1977 if not paid by the county before that date, it is necessary that this act take effect immediately.

CHAPTER 1014

An act to amend Sections 45261 and 88081 of the Education Code, relating to classified school employees.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 45261 of the Education Code is amended to read:

45261. (a) The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

(b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

SEC. 2. Section 88081 of the Education Code is amended to read:

88081. (a) The rules shall provide for the procedures to be followed by the governing board as they pertain to the classified service regarding applications, examinations, eligibility, appointments, promotions, demotions, transfers, dismissals, resignations, layoffs, reemployment, vacations, leaves of absence, compensation within classification, job analyses and specifications, performance evaluations, public advertisement of examinations, rejection of unfit applicants without competition, and any other matters necessary to carry out the provisions and purposes of this article.

(b) With respect to those matters set forth in subdivision (a) which are a subject of negotiation under the provisions of Section 3543.2 of the Government Code, such rules as apply to each bargaining unit shall be in accordance with the negotiated agreement, if any, between the exclusive representative for that unit and the public school employer.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1015

An act to amend Section 3 of Chapter 1130 of the Statutes of 1975, relating to railroads, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 3 of Chapter 1130 of the Statutes of 1975 is amended to read:

SEC. 3. The Department of Transportation shall acquire the following, to the extent that sufficient funds are available in the Abandoned Railroad Account in the State Transportation Fund:

(a) That portion of the property of the Sacramento Northern Railway within the City of Fairfield in the County of Solano consisting of three parcels lying northeast and southwest of the intersection of Travis Boulevard and Pennsylvania Avenue.

(b) That portion of the abandoned right-of-way of the Sacramento Northern Railway from near 16th and B Streets in the City of Sacramento to M Street in Rio Linda, in the County of Sacramento.

(c) That portion of the abandoned Baldwin Park Branch of the Southern Pacific Transportation Company between El Monte and La Rica Avenues in the City of Baldwin Park in the County of Los Angeles; provided, however, that the contribution by the department shall not exceed one-half of the cost of acquisition.

(d) That portion of Southern Pacific Transportation Company property within the City of Riverside in the County of Riverside along Magnolia Street from the southwesterly city limits to Banbury Street.

(e) Those portions of abandoned right-of-way of the Sacramento Northern Railway in the City of Concord in the County of Contra Costa consisting of one 400-foot segment between Salvio Street and Willow Pass Road to the north of the passenger station of the San Francisco Bay Area Rapid Transit District; and one 1000-foot segment between Mt. Diablo Street and Cowell Road and one 7000-foot segment between Cowell Road and a point thereon that is approximately 150 feet north of the intersection thereof with Rockne Drive, both of which segments are to the south of that station.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The acquisition of rights-of-way provided for by Section 1 of this act is essential in improving multi-modal public transportation in Contra Costa County, thereby decreasing dependence on automobile traffic. In order that these benefits to the public may be

secured at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1016

An act to amend Section 2950 of, and to add Section 2950.1 to, the Health and Safety Code, and to amend Section 6409 of the Labor Code, relating to pesticide poisoning.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 2950 of the Health and Safety Code is amended to read:

2950. Any physician and surgeon who knows, or has reasonable cause to believe, that a patient is suffering from pesticide poisoning or any disease or condition caused by a pesticide shall promptly report such fact to the local health officer by telephone within 24 hours and by a copy of the report required pursuant to subdivision (a) of Section 6409 of the Labor Code within seven days, except that the information which is available to the physician and surgeon is all that is required to be reported as long as reasonable efforts are made to obtain such information. Each local health officer shall immediately notify the county agricultural commissioner of any such report received and shall report to the Director of Food and Agriculture, and the State Director of Health, on a form prescribed by the State Director of Health, each case reported to him pursuant to this section within seven days after receipt of any such report.

In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

Any physician and surgeon who fails to comply with the reporting requirements of this section or any regulations adopted pursuant to this section shall be liable for a civil penalty of two hundred fifty dollars ($250). For the purposes of this section, failure to report a case of pesticide poisoning involving one or more employees in the same incident shall constitute a single violation. The Division of Industrial Safety of the Department of Industrial Relations shall enforce these provisions by issuance of a citation and notice of civil penalty in a manner consistent with Section 6317 of the Labor Code. Any physician and surgeon who receives a citation and notice of civil penalty may appeal to the Occupational Safety and Health Appeals Board in a manner consistent with Section 6319 of the Labor Code.

Each local health officer shall maintain the ability to receive and investigate reports of pesticide poisoning at all times pursuant to Section 12982 of the Food and Agricultural Code.

SEC. 2. Section 2950.1 is added to the Health and Safety Code, to read:

2950.1. The State Department of Health shall develop and implement, in cooperation with local health officers and state and local medical associations, a program of medical education to alert physicians and other health care professionals to the symptoms, diagnosis, treatment, and reporting of pesticide poisoning.

SEC. 3. Section 6409 of the Labor Code is amended to read:

6409. (a) Every employer, insurer and physician or surgeon who attends any injured employee shall file with the Division of Labor Statistics and Research a complete report of every injury or occupational illness to each employee arising out of or in the course of his employment unless disability resulting from such injury does not last through the day or does not require medical service other than ordinary first aid treatment. Each such report of injury or occupational illness shall indicate the social security number of the injured employee. The Division of Labor Statistics and Research may, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, adopt reasonable rules and regulations prescribing the detail and time limits of such report.

(b) In every case involving a serious injury or illness, or death, in addition to the report required in subdivision (a), a report shall be made immediately by the employer to the Division of Industrial Safety by telephone or telegraph.

(c) Serious injury or illness shall be defined as any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers loss of any member of the body or any serious degree of permanent disfigurement. Serious injury or illness or death shall not include any injury, illness or death caused by the commission of a Penal Code violation, except the violation of Penal Code Section 385, or an accident on a public street or highway.

(d) Whenever a state, county, or local fire or police agency is called to an accident involving an employee covered by this part in which a serious injury or illness, or death occurs, the nearest office of the Division of Industrial Safety shall be notified by telephone immediately by the responding agency.

(e) In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act, because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden on local government.

CHAPTER 1017

An act to amend Sections 165, 21055, 21451, and 21454 of the Vehicle Code, relating to law enforcement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 165 of the Vehicle Code is amended to read:

165. An authorized emergency vehicle is:

(a) Any publicly owned ambulance, lifeguard or lifesaving equipment or any privately owned ambulance used to respond to emergency calls and operated under a license issued by the Commissioner of the California Highway Patrol.

(b) Any publicly owned vehicle operated by the following persons, agencies or organizations:

(1) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(2) Any police department, including those of the University of California and the California State University and Colleges, sheriff's department, the California Highway Patrol, or the California State Police Division.

(3) The district attorney of any county or any district attorney investigator.

(4) Any constable or deputy constable engaged in law enforcement work.

(5) Peace officer personnel of the Department of Justice.

(6) Peace officer personnel of the state park system appointed pursuant to Section 5008 of the Public Resources Code.

(7) Peace officer personnel employed and compensated as members of a security patrol of a school district while carrying out the duties of their employment.

(8) Peace officer personnel of the Department of Corrections designated in subdivision (b) of Section 830.5 of, and in Section 830.5a of, the Penal Code.

(9) Housing authority patrol officers designated in paragraph (17) of subdivision (a) of Section 830.4 of the Penal Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned such vehicle.

(e) Any state-owned vehicle operated by a fish and game warden.

(f) Any vehicle owned or operated by any department or agency of the United States government:

(1) When such department or agency is engaged primarily in law enforcement work and the vehicle is used in responding to emergency calls, or

(2) When such vehicle is used in responding to emergency fire, ambulance or lifesaving calls.

(g) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC. 2. Section 21055 of the Vehicle Code is amended to read:

21055. The driver of an authorized emergency vehicle is exempt from Chapter 2 (commencing with Section 21350), Chapter 3 (commencing with Section 21650), Chapter 4 (commencing with Section 21800), Chapter 5 (commencing with Section 21950), Chapter 6 (commencing with 22100), Chapter 7 (commencing with Section 22348), Chapter 8 (commencing with Section 22450), Chapter 9 (commencing with Section 22500), and Chapter 10 (commencing with Section 22650) of this division, and Article 3 (commencing with Section 38305) and Article 4 (commencing with Section 38312) of Chapter 5 of Division 16.5, under all of the following conditions:

(a) If the vehicle is being driven in response to an emergency call or while engaged in rescue operations or is being used in the immediate pursuit of an actual or suspected violator of the law or is responding to, but not returning from, a fire alarm, except that fire department vehicles are exempt whether directly responding to an emergency call or operated from one place to another as rendered desirable or necessary by reason of an emergency call and operated to the scene of the emergency or operated from one fire station to another or to some other location by reason of the emergency call.

(b) If the driver of the vehicle sounds a siren as may be reasonably necessary and the vehicle displays a lighted red lamp visible from the front as a warning to other drivers and pedestrians.

A siren shall not be sounded by an authorized emergency vehicle except when required under this section.

SEC. 3. Section 21451 of the Vehicle Code is amended to read:

21451. Green alone or "go" on an official traffic control signal means both of the following:

(a) Vehicular traffic facing the signal shall proceed straight through or may turn right or left. Vehicular traffic may make a semicircular or U-turn except where such turn is prohibited by signs erected at such location. The semicircular or U-turn shall be made from the far left-hand lane that is lawfully available to traffic moving in the direction of travel from which the turn is commenced. However, vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal was first exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk, but shall yield the right-of-way to all vehicles which were lawfully within the intersection at the time such signal was first exhibited.

SEC. 4. Section 21454 of the Vehicle Code is amended to read:

21454. (a) A green arrow on an official traffic control signal means both of the following:

(1) Vehicular traffic facing the signal may make the movement indicated by the green arrow but shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such green arrow is exhibited.

(2) Vehicular traffic may make a semicircular or U-turn except where such turn is prohibited by signs erected at such location. The semicircular or U-turn shall be made from the far left-hand lane that is lawfully available to traffic moving in the direction of travel from which the turn is commenced.

(b) A green arrow may be displayed alone or with red, yellow, or green.

(c) It is unlawful to operate a traffic signal which is equipped with a green light and a red arrow which are shown simultaneously. A green arrow shall not be displayed so as to direct vehicular traffic in a manner as to conflict with another flow of vehicular traffic directed at the same time in another direction.

(d) In the event a flashing red or yellow signal replaces the green arrow, vehicular traffic facing the signal may make the movement which would have been indicated by the green arrow, but shall proceed pursuant to subdivision (a) of Section 21457 if the signal is a flashing red signal or pursuant to subdivision (b) of that section if the signal is a flashing yellow signal.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant, identifiable cost changes.

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

This act relates to law enforcement and is intended to have a beneficial effect with respect to certain law enforcement functions.

In order that it may achieve its intended results, it is necessary that this act go into effect immediately.

CHAPTER 1018

An act to amend Section 4453 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 4453 of the Labor Code is amended to read:

4453. Except as provided in Section 4453.1, in computing average annual earnings for the purposes of temporary disability indemnity and permanent total disability indemnity only, the average weekly earnings shall be taken at not less than seventy-three dollars and fifty cents ($73.50) nor more than two hundred thirty-one dollars ($231). In computing average annual earnings for purposes of permanent partial disability indemnity, except as provided in Section 4659, the average weekly earnings shall be taken at not less than forty-five dollars ($45) nor more than one hundred five dollars ($105). Between these limits the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as follows:

(a) Where the employment is for 30 or more hours a week and for five or more working days a week, the average weekly earnings shall be 100 percent of the number of working days a week times the daily earnings at the time of the injury.

(b) Where the employee is working for two or more employers at or about the time of the injury, the average weekly earnings shall be taken as 100 percent of the aggregate of such earnings from all employments computed in terms of one week; but the earnings from employments other than the employment in which the injury occurred shall not be taken at a higher rate than the hourly rate paid at the time of the injury.

(c) If the earnings are at an irregular rate, such as piecework, or on a commission basis, or are specified to be by week, month or other period, then the average weekly earnings mentioned in subdivision (a) above shall be taken as 100 percent of the actual weekly earnings averaged for such period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay

(d) Where the employment is for less than 30 hours per week, or where for any reason the foregoing methods of arriving at the average weekly earnings cannot reasonably and fairly be applied, the average weekly earnings shall be taken at 100 percent of the sum which reasonably represents the average weekly earning capacity of the injured employee at the time of his injury, due consideration being given to his actual earnings from all sources and employments.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because

the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1019

An act to amend Section 1413 of the Labor Code, relating to fair employment practices.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 1413 of the Labor Code is amended to read:

1413. As used in this part:

(a) "Person" includes one or more individuals, partnerships, associations or corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(b) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(c) "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(d) "Employer," except as hereinafter provided, includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly; the state or any political or civil subdivision thereof and cities.

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employee" does not include any individual employed by his parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(f) "Commission," unless a different meaning clearly appears from the context, means the State Fair Employment Practice Commission created by this part.

(g) "Affirmative actions" means any educational activity for the purpose of securing greater employment opportunities for members of racial, religious, or nationality minority groups and any promotional activity designed to secure greater employment opportunities for the members of such groups on a voluntary basis.

(h) "Physical handicap" includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

(i) "Medical condition" means any health impairment related to

or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

CHAPTER 1020

An act to add Section 827.5 to the Insurance Code, relating to insurers.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 827.5 is added to the Insurance Code, to read:

827.5. The term "insurer" as used in this section shall not include domestic insurers as defined in Section 26.

The following transactions of an insurer described in subdivisions (a), (c), (d), and (f) of Section 826 shall be exempt from the provisions of this article:

(a) Any negotiations or agreements prior to general solicitation for the approval of the shareholders of said insurer and subject to such approval, of a change in the rights, preferences, privileges or restrictions of or on outstanding securities or a merger, consolidation or sale of corporate assets in consideration of the issuance of securities.

(b) Any change in the rights, preferences, privileges, or restrictions of or on outstanding securities of such insurer, unless the holders of at least 25 percent of the outstanding shares or units of any class of securities which will be directly or indirectly affected substantially and adversely by such change have addresses in this state according to the records of such insurer; or

(c) Any exchange incident to a merger, a consolidation, an acquisition of outstanding stock, or a sale of corporate assets in consideration of the issuance of securities of another insurer or corporation, unless at least 25 percent of the outstanding shares of any class, the holders of which are to receive securities in the exchange of the surviving, consolidated, or purchasing corporation or insurer, are held by persons who have addresses in this state according to the records of such corporation or insurer of which they are shareholders.

(d) For the purposes of subdivision (b) and subdivision (c) of this section, (1) any securities held to the knowledge of the issuer in the names of a broker as defined in Section 824 or nominees of such broker and (2) any securities controlled by any one person who is not a resident of the State of California who controls directly or indirectly 50 percent or more of the outstanding securities of that class, shall not be considered outstanding. The determination of whether 25

percent of the outstanding securities are held by persons having addresses in this state, for the purposes of subdivision (b) and subdivision (c) of this section, shall be made as of the record date for the determination of the security holders entitled to vote on or consent to the action, if approval of such holders is required, or if not as of the date of directors' approval of such action.

(e) Any change (other than a stock split or reverse stock split) in the rights, preferences, privileges, or restrictions of or on outstanding shares, except the following if they materially and adversely affect any class of shareholders: (1) to add, change, or delete assessment provisions; (2) to change the rights to dividends thereon; (3) to change the redemption provisions; (4) to make them redeemable; (5) to change the amount payable on liquidation; (6) to change, add, or delete conversion rights; (7) to change, add, or delete voting rights; (8) to change preemptive rights; (9) to change, add, or delete sinking fund provisions; (10) to rearrange the relative priorities of outstanding shares; (11) to impose, change, or delete restrictions upon the transfer of shares in the articles of incorporation or bylaws; (12) to change the right of shareholders with respect to the calling of special meetings of shareholders; or (13) to change, add, or delete any rights, preferences, privileges, or restrictions of, or on, the outstanding shares or memberships of a mutual water company or other corporation organized primarily to provide services or facilities to its shareholders or members.

(f) Any stock split or reverse stock split, except the following: (1) any stock split or reverse stock split if the corporation has more than one class of shares outstanding and the split would have a material effect on the proportionate interests of the respective classes as to voting, dividends or distributions; (2) any stock split of a stock which is traded in the market and its market price as of the date of directors' approval of the stock split adjusted to give effect to the split was less than two dollars ($2) per share; or (3) any reverse stock split if the corporation has the option of paying cash for any fractional shares created by such reverse split and as a result of such action the proportionate interests of the shareholders would be substantially altered. Any shares issued upon a stock split or reverse stock split exempted by this subdivision shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

(g) Any change in the rights of outstanding debt securities, except the following if they substantially and adversely affect any class of securities: (1) to change the rights to interest thereon; (2) to change their redemption provisions; (3) to make them redeemable; (4) to extend the maturity thereof or to change the amount payable thereon at maturity; (5) to change their voting rights; (6) to change their conversion rights; (7) to change sinking fund provisions; or (8) to make them subordinate to other indebtedness.

CHAPTER 1021

An act to amend Section 5325 of, and to add Section 5157 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 5157 is added to the Welfare and Institutions Code, to read:

5157. (a) Each person, at the time he or she is first taken into custody under provisions of Section 5150, shall be provided, by the person who takes such other person into custody, the following information orally. The information shall be in substantially the following form:

My name is _____ .
I am a _____ .
(peace officer, mental health professional)
with _____ .
(name of agency)
You are not under criminal arrest, but I am taking you for examination by mental health professionals at _____
_____ .
(name of facility)
You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where your have been taken.

(b) The designated facility shall keep, for each patient evaluated, a record of the advisement given pursuant to subdivision (a) which shall include:

(1) Name of person detained for evaluation.

(2) Name and position of peace officer or mental health professional taking person into custody.

(3) Date.

(4) Whether advisement was completed.

(5) If not given or completed, the mental health professional at the facility shall either provide the information specified in subdivision (a), or include a statement of good cause, as defined by regulations of the State Department of Health, which shall be kept with the patient's medical record.

(c) Each person admitted to a designated facility for 72-hour evaluation and treatment shall be given the following information by admission staff at the evaluation unit. The information shall be given orally and in writing and in a language or modality accessible to the person. The written information shall be available in the person's native language or the language which is the person's principal means of communication. The information shall be in substantially the following form:

My name is _____ .
My position here is _____ .

You are being placed into the psychiatric unit because it is our professional opinion that as a result of mental disorder, you are likely to:

(check applicable)
harm yourself ____
harm someone else ____
be unable to take care of your own
food, clothing, and housing needs ____

We feel this is true because

_____

(herewith a listing of the facts upon which the allegation of dangerous or gravely disabled due to mental disorder is based, including pertinent facts arising from the admission interview)

You will be held on the ward for a period up to 72 hours.
This does not include weekends or holidays.
Your 72-hour period will begin _____
(day and time)

During these 72 hours you will be evaluated by the hospital staff, and you may be given treatment, including medications. It is possible for you to be released before the end of the 72 hours. But if the staff decides that you need continued treatment you can be held for a longer period of time. If you are held longer than 72 hours you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided free.

(d) For each patient admitted for 72-hour evaluation and treatment, the facility shall keep with the patient's medical record a record of the advisement given pursuant to subdivision (c) which shall include:

(1) Name of person performing advisement.
(2) Date.
(3) Whether advisement was completed.
(4) If not completed, a statement of good cause.

If the advisement was not completed at admission, the advisement process shall be continued on the ward until completed. A record of the matters prescribed by subdivisions (a), (b), and (c) shall be kept with the patient's medical record.

SEC. 2. Section 5325 of the Welfare and Institutions Code is amended to read:

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient for psychiatric evaluation or treatment to any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered, and each mentally retarded person committed to a state hospital pursuant to Article 5 (commencing with Section 6500), Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing such services and otherwise brought to his attention by such additional means as the Director of Health may designate by regulation:

(a) To wear his own clothes; to keep and use his own personal possessions including his toilet articles; and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls or to have such calls made for them.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior; or

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) Other rights, as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and

statutory rights which are found by the State Department of Health to be frequently misunderstood, ignored, or denied.

Upon admission to a facility each patient shall immediately be given a copy of a State Department of Health prepared patients' rights handbook.

The State Department of Health shall prepare and provide the forms specified in this section and in Section 5157.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1022

An act to amend Sections 9160, 9161, 9162, 9164, 9166, and 9275 of, to add Sections 9160.5 and 9279 to, and to repeal and add Chapter 2 (commencing with Section 9010) of Division 7 of, the Elections Code, relating to elections.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Chapter 2 (commencing with Section 9010) of Division 7 of the Elections Code is repealed.

SEC. 2. Section 9160 of the Elections Code is amended to read:

9160. The state central committee shall consist of:

(a) One member for each of the following public officers:

(1) Governor.

(2) Lieutenant Governor.

(3) Treasurer.

(4) Controller.

(5) Attorney General.

(6) Secretary of State.

(7) All members of the State Board of Equalization.

(8) All Senators and Representatives of Congress from California.

(9) All Members of the State Legislature.

(b) The chairman of each county central committee of the party.

(c) Members appointed pursuant to this part.

(d) The national committeeman and national committeewoman of the party.

(e) Any person elected or appointed to fill a vacancy in a partisan office.

(f) Immediate past chairman of this committee.

SEC. 3. Section 9160.5 is added to the Elections Code, to read:

9160.5. The following are members of the state central committee:

(a) Each officer named in subdivision (a) of Section 9160 who was nominated and elected as a candidate of the party and whose term of office extends beyond the eighth day of January next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any such officer. These members are "holdover members."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election or at a special primary election by that party. These members are "nominee members." Nominees for an office the term of which extends beyond two years are members until the direct primary election at which nominations for the office are again to be made. If a nominee is elected to the office to which he was nominated at the succeeding general election, he shall be considered a "holdover member."

(c) One member appointed for each of the officers named in subdivision (a) of Section 9160, not represented by a "holdover member" nor by a "nominee member" of the party. These members shall be chosen and appointed in the manner provided in subdivision (a) of this section. These members are "appointive members."

(d) If a person qualifies more than once to be a member he shall be a member by virtue of the most recent qualification. The resulting vacancy shall be filled pursuant to subdivision (e).

(e) Vacancies in nominee or holdover memberships shall be filled as follows:

(1) If the vacancy occurs in a senatorial or Assembly district situated wholly within the limits of a single county, by appointment by the county central committee of the party in the county. Whenever such a vacancy occurs by virtue of the failure to nominate a person affiliated with the party, no person shall be chosen to fill the vacancy who does not reside in the senatorial or Assembly district involved.

(2) If the vacancy occurs in a senatorial or Assembly district comprising two or more counties, by appointment by the county central committee of the party in the county in which the disqualified or deceased member resided, if the vacancy is caused by disqualification or death, or in which the "holdover" or "nominee member" of the opposing party resides, if the vacancy is due to any other cause.

(3) If the vacancy occurs as to a member for a United States Senator from California or as to a member for any of the state officers named in subdivision (a) of Section 9160, by appointment by the state central committee.

(4) If the vacancy occurs as to a member for any Representative in Congress from California, by appointment by the state central committee of a voter who resides within the congressional district to be represented.

(f) A county central committee may authorize its chairman to appoint members to fill vacancies in the membership which the county central committee has power to fill.

SEC. 4. Section 9161 of the Elections Code is amended to read:

9161. A holdover member shall make appointments to the membership of this committee of one voter of the same sex and two voters of the opposite sex, and shall appoint five additional voters without regard to sex.

SEC. 5. Section 9162 of the Elections Code is amended to read:

9162. Appointive members and nominee members who were not elected at the general election shall appoint three voters to the membership of this committee, two of whom shall be of the opposite sex.

SEC. 6. Section 9164 of the Elections Code is amended to read:

9164. Any person who is a member of this committee by virtue of having been elected or appointed to fill a vacancy in a partisan office, shall within 60 days of his election or appointment, appoint additional members to the committee in the same manner as holdover members make such appointments.

SEC. 7. Section 9166 of the Elections Code is amended to read:

9166. Each holdover, nominee, or appointive member shall send a notice by mail to each person whom he has appointed as a member of this committee which will inform him that:

(a) He is a member of the committee.

(b) The committee will meet in Sacramento and the date of the meeting.

(c) The meeting may be attended either in person or by proxy.

(d) Every proxy shall be filed in the office of the Secretary of State not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.

(e) The proxy shall be in writing signed by the member under penalty of perjury.

Each appointing member shall enclose with each notice one copy of the form of proxy sent to that delegate by the Secretary of State.

SEC. 8. Section 9275 of the Elections Code is amended to read:

9275. This committee may prescribe dues to be paid by its members in the manner and by the time prescribed by vote of the majority of the members of the committee. The dues charged shall not exceed twenty-four dollars ($24) per year.

Any appointed member of this committee who fails to pay the dues prescribed by the committee may, upon first notifying the appointing member, be removed from the committee in the manner provided by the committee.

SEC. 9. Chapter 2 (commencing with Section 9010) is added to Division 7 of the Elections Code, to read:

CHAPTER 2. PRESIDENTIAL ELECTORS

9010. In each year of the general election at which electors of President and Vice President of the United States are to be chosen, the Republican nominees for Governor, Lieutenant Governor, Treasurer, Controller, Attorney General, and Secretary of State, the Republican nominees for United States Senator at the last two United States senatorial elections, the Assembly Republican leader, the Senate Republican leader, all elected officers of the Republican State Central Committee, the National Committeeman and National Committeewoman, the President of the Republican County Central Committee Chairmen's Association, and the chairman or president of each Republican volunteer organization officially recognized by the Republican State Central Committee shall act as presidential electors. The remaining presidential elector positions, and any vacant positions, shall be filled by appointment of the Chairman of the Republican State Central Committee in accordance with the bylaws of the committee. The name, residence and business address of each such appointee shall be filed with the Secretary of State by October 1st of the presidential election year. The Republican State Central Committee shall adopt bylaws implementing the provisions of this section.

SEC. 10. Section 9279 is added to the Elections Code, to read:

9279. The committee shall adopt the state party platform according to the bylaws of the Republican Party.

CHAPTER 1023

An act to amend Sections 12400, 14150, and 14150.5 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 12400 of the Welfare and Institutions Code is amended to read:

12400. (a) For the 1974–75 fiscal year, the county share toward the cost of state supplementary aid provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda	$7,025,338
Alpine	4,947
Amador	38,704
Butte	670,251

Calaveras	77,181
Colusa	49,813
Contra Costa	3,476,380
Del Norte	114,534
El Dorado	250,723
Fresno	2,904,906
Glenn	68,691
Humboldt	720,054
Imperial	470,331
Inyo	72,676
Kern	2,185,196
Kings	388,717
Lake	200,967
Lassen	74,308
Los Angeles	46,323,058
Madera	461,328
Marin	579,850
Mariposa	29,298
Mendocino	353,434
Merced	707,640
Modoc	43,587
Mono	12,975
Monterey	923,764
Napa	415,106
Nevada	179,187
Orange	3,060,075
Placer	367,389
Plumas	73,565
Riverside	2,669,507
Sacramento	4,872,097
San Benito	73,296
San Bernardino	3,090,547
San Diego	5,367,654
San Francisco	9,468,300
San Joaquin	2,617,685
San Luis Obispo	539,061
San Mateo	2,258,583
Santa Barbara	1,077,275
Santa Clara	4,656,892
Santa Cruz	755,346
Shasta	588,992
Sierra	9,556
Siskiyou	180,859
Solano	691,459
Sonoma	1,118,960
Stanislaus	1,523,171
Sutter	213,560
Tehama	179,320
Trinity	36,021

Tulare	1,606,935
Tuolumne	113,202
Ventura	1,188,797
Yolo	462,791
Yuba	316,161
	$118,000,000

For the fiscal year 1973–74, each county's share shall be 45 percent of the amount specified in the above table for the particular county. Beginning with the fiscal year 1975–76, the amount payable by each county in each subsequent year shall be determined by multiplying the 1974–75 base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base year.

(b) The term "modified assessed value" for the current year means the total of (1) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (2) the product of the sum of (i) the taxable assessed value of county-assessed property, (ii) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (iii) the sum of assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years.

The term "modified assessed value" for the base year means the total of (1) the taxable assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (2) the product of the sum of (i) the taxable assessed value of county-assessed property, (ii) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (iii) the sum of assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the factor certified for the base year under Section 17261 of the Education Code for the local roll of the county. The factor referred to herein is as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed

property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(c) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

SEC. 2. Section 14150 of the Welfare and Institutions Code is amended to read:

14150. (a) For the 1971–72 fiscal year, the county share toward the cost of care and administration provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda	$11,832,000
Alpine	5,000
Amador	156,000
Butte	952,000
Calaveras	215,000
Colusa	142,000
Contra Costa	6,018,000
Del Norte	123,000
El Dorado	359,000
Fresno	6,873,000
Glenn	187,000
Humboldt	1,200,000
Imperial	430,000
Inyo	241,000
Kern	5,233,000
Kings	740,000
Lake	132,000
Lassen	124,000
Los Angeles	99,975,000
Madera	661,000
Marin	1,120,000
Mariposa	33,000
Mendocino	550,000
Merced	1,545,000
Modoc	120,000
Mono	31,000
Monterey	2,595,000
Napa	550,000
Nevada	425,000
Orange	10,395,000
Placer	913,000
Plumas	220,000
Riverside	5,160,000
Sacramento	8,627,000

San Benito	181,000
San Bernardino	6,462,000
San Diego	8,050,000
San Francisco	15,268,000
San Joaquin	7,390,000
San Luis Obispo	1,443,000
San Mateo	5,600,000
Santa Barbara	2,470,000
Santa Clara	9,400,000
Santa Cruz	1,335,000
Shasta	660,000
Sierra	13,000
Siskiyou	390,000
Solano	796,000
Sonoma	2,250,000
Stanislaus	2,630,000
Sutter	770,000
Tehama	290,000
Trinity	107,000
Tulare	2,845,000
Tuolumne	284,000
Ventura	2,776,000
Yolo	1,050,000
Yuba	750,000

The amount payable by each county in each subsequent year beginning with the 1972–73 fiscal year shall be determined by multiplying the base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base year. The term "modified assessed value" for the current year means the total of (a) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (b) the product of the sum of (1) the taxable assessed value of county-assessed property, (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years.

The term "modified assessed value" for the base year means the total of (1) the taxable assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (2) the product of the sum of (i) the taxable assessed value of county-assessed property, (ii) the exempt assessed value of partially or totally exempt county-assessed property on which tax

losses are reimbursed by the state, and (iii) the sum of assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the factor certified for the base year under Section 17261 of the Education Code for the local roll of the county. The factor referred to herein is as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(b) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

(c) Notwithstanding the provisions of Sections 5707, 5709.5, 5710, and 5714, payment for the costs of health care services provided under Part 2 (commencing with Section 5600), Division 5, of this code, the Short-Doyle Act, shall be made in accordance with the provisions of this section.

(d) Notwithstanding the provisions of Section 7511, payment for the share of costs of health care services provided under Chapter 4 (commencing with Section 7500), Division 7, of this code, shall be made in accordance with the provisions of this section.

SEC. 3. Section 14150.5 of the Welfare and Institutions Code is amended to read:

14150.5. (a) Notwithstanding the provisions of Section 14150, commencing with the 1974–75 fiscal year, no county shall be required to pay as the county share toward the cost of care and administration in any fiscal year under Section 14150 an amount which would exceed the amount produced by a property tax rate of sixty cents ($0.60) per one hundred dollars ($100) of modified assessed value of property in the county for the 1974–75 fiscal year and for each subsequent fiscal year. The term "modified assessed value" means the total of (a) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (b) the product of the sum of (1) the taxable assessed value of county-assessed property, (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the

Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years, such factors being those as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

Any relief to the county under this section shall be first used to reduce the amount owing by any county of the 15th class to the state under the Medi-Cal program.

(b) For the 1977–78 fiscal year only, the amount determined pursuant to subdivision (a) of this section shall be reduced for each county by the amount by which (1) the sum of the actual amount determined under Section 12400 for the 1976–77 fiscal year plus the amount determined under Section 14150 for the 1976–77 fiscal year exceeds (2) the sum of the amounts that would have been derived for the 1976–77 fiscal year under Sections 12400 and 14150, if the factor for the base year certified under Section 17261 of the Education Code had been used to determine the base-year modified assessed value, instead of the average of the factor certified for the base year with the factors certified for the two immediately preceding years.

If the amount determined under (2) exceeds the amount determined under (1), then the amount determined pursuant to subdivision (a) shall be used as the basis for determining the amount due from each county.

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

This act provides a vital alternative method of computation of a county's share of costs under the state supplementary program for the aged, blind and disabled and the Medi-Cal Act, which must be available to counties prior to the close of the 1976–77 fiscal year. In order to accomplish such purpose, it is necessary that this act take immediate effect.

CHAPTER 1024

An act to amend Sections 986.35 and 987.62 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 986.35 of the Military and Veterans Code is amended to read:

986.35. The department, after consummating a purchase under the provisions of this article and the veteran having occupied the property as required by Section 986.3 of this code, may waive the occupancy requirement for a period not to exceed four years on a showing of good cause. The department shall establish standards for the occupancy waiver and shall make those standards known. The department shall waive the occupancy requirement in any case where the State Department of Health determines that health hazards on adjacent property render the farm or home unsuitable for occupancy, and such waiver shall be effective as long as such conditions exist.

SEC. 2. Section 987.62 of the Military and Veterans Code is amended to read:

987.62. The department, after consummating a purchase under the provisions of this article and the veteran having occupied the property as required by Section 987.60 of this article, may waive the occupancy requirement for a period not to exceed four years on a showing of good cause. The department shall establish standards for the occupancy waiver and shall make those standards known. The department shall waive the occupancy requirement in any case where the State Department of Health determines that health hazards on adjacent property render the farm or home unsuitable for occupancy, and such waiver shall be effective as long as such conditions exist.

CHAPTER 1025

An act to add Section 8173 to, and to repeal Section 8173 of, the Government Code, relating to the Governor's Mansion.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 8173 of the Government Code is repealed.

SEC. 2. Section 8173 is added to the Government Code, to read:

8173. Should any Governor choose not to reside in the Governor's Mansion, the Director of General Services may permit the property to be used by government employees for training sessions, seminars, conferences, or other state-related activities, provided such use is consistent with local zoning ordinances. The Director of General Services may establish fees and such regulations as are necessary to maintain the integrity of the mansion.

SEC. 3.

CHAPTER 1026

An act to add Section 66634 to the Government Code, and to amend Section 12389 of, and to add Section 12958 to, the Insurance Code, relating to liability.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 66634 is added to the Government Code, to read:

66634. The Legislature finds and declares that because the San Francisco Bay Conservation and Development Commission must rely on the expertise provided by volunteer members of advisory boards to make decisions which relate to the public safety, members of the advisory boards should be entitled to the same immunity from liability provided commission members and other public employees.

Members of the advisory bodies appointed pursuant to Section 66633 while performing duties required by this title or by the commission shall be entitled to the same rights and immunities granted public employees by the provisions of Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Such rights and immunities are deemed to have attached and shall attach as of the date of appointment of a member to the advisory body. This provision shall apply to members heretofore and hereafter appointed to the Engineering Criteria Review Board (14 Cal. Adm. Code 10298), the Design Review Board (14 Cal. Adm. Code 10295) and any other advisory bodies hereafter created pursuant to Section 66633.

SEC. 2. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business	Amount of required minimum net worth
Less than 10,000	$20,000
10,000 to 50,000	30,000
50,000 to 100,000	60,000
100,000 to 500,000	100,000
500,000 to 1,000,000	150,000
1,000,000 or more	200,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the lesser of: (a) the actual cost thereof, or (b) 50 percent of its stated capital, as defined in Section 1900 of the Corporations Code.

Where the information in the title plant is not being kept current, the asset value of such plant shall not exceed the actual cost less 20 percent of the actual cost for each 12-month period, immediately preceding the date such asset is valued for purposes of this subdivision, that the title plant is not actually maintained.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one-hundred-seventy-five-dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant approved by the commissioner specifically for the particular company. Approval of an auditor for a particular company shall not be deemed to be a licensing of the auditor nor approval of the auditor for any other company or any other purpose. Any such approval, or the renewal thereof, shall automatically expire on the first day of January in the fifth calendar year following the date of original or renewal approval. The fee for filing an application for such approval or the renewal thereof shall be seventeen dollars and fifty cents ($17.50). The fee for filing the audit shall be thirty-seven dollars and fifty cents ($37.50).

The commissioner may deny or revoke approval or renewal of approval of an auditor for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license;

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective;

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant; or

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) All funds deposited with the company in connection with any escrow shall be deposited in a bank in a separate trust account, and such funds shall be the property of the person or persons entitled thereto under the provisions of the escrow and segregated escrow by escrow in the records of the company. Such funds shall not be subject to any debts of the company and shall be used only to fulfill the terms of the individual escrow under which the funds were accepted and none of such funds shall be used until all conditions of the escrow have been met.

Bona fide drafts executed by persons fully responsible financially may at the option of the company, be deemed the equivalent of funds already cleared into such bank deposit unless another law of this state prohibits such persons from tendering such drafts to escrow holders for the purpose of closing escrows.

Any interest received on funds deposited with the company in connection with any escrow which are deposited in a bank shall be paid over to the depositing party to the escrow and shall not be transferred to the account of the company.

(2) It shall maintain record of all receipts and disbursements of escrow funds.

(3) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence

satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(4) It shall obtain and maintain a fidelity bond on file with the commissioner, to cover all officers and employees of the company who participate in any escrow transaction that is handled by the company. Such bond shall be a blanket bond or, with the approval of the commissioner, may be a position or individual bond. The commissioner shall prescribe the amount of the bond which shall not exceed two hundred thousand dollars ($200,000).

In the commissioner's sole discretion, he may accept a cash deposit in an amount not to exceed two hundred thousand dollars ($200,000) in lieu of the bond otherwise required by this paragraph. In the event such a deposit is accepted by the commissioner, he shall make a special deposit thereof in the State Treasury and so long as the depositor continues to be solvent, the depositor shall annually receive the interest accruing on the assets in the deposit.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out

such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 12958 is added to the Insurance Code, to read:

12958. (a) There is in the office of the commissioner the Local Government Information and Statistical Analysis Section which shall collect relevant data received from insurers pursuant to subdivision (b) in order that public entities will be able to assess past insurance programs and to consider alternatives to full insurance coverage.

(b) Each insurer transacting insurance, as defined in Sections 108 and 116, covering liability for any public entity, as defined in Section 811.2 of the Government Code, where the public entity is the named insured, shall report the following statistics to the commissioner by type of public entity, on a date not later than July 1 of each calendar year:

(1) The total number of insureds written during the immediately preceding calendar year.

(2) The total amount of premiums received from insureds, both written and earned (as reported in the annual statement), during the immediately preceding calendar year.

(3) The number of claims reported to the insurer for the first time separately by the year the claim occurred, and, the number of claims reported closed during a previous calendar year which were reopened separately by the year claim occurred.

(4) The total number of claims outstanding, together with the monetary amount reserved for loss and allocated loss expense, in the annual statement as of December 31 of the calendar year next preceding, separately stated by the year the claim occurred.

(5) (A) The number of claims closed with payment to the claimant during the calendar year next preceding, to be reported by the year the claim occurred, (B) the total monetary amount paid thereon, reported by the year the claim occurred, and (C) the total allocated loss expense paid thereon, reported by the year claim occurred.

(6) The monetary amount paid on claims during the calendar year next preceding, to be reported separately by the year the claim occurred, with allocated loss expense paid, to be reported separately by the year the claim occurred.

(7) The number of claims closed without payment to the claimant during the calendar year next preceding, by the year the claim occurred, and the allocated loss expense paid thereon, separately by the year the claim occurred.

(8) The monetary amount reserved in the annual statement for the calendar year next preceding on claims incurred but not reported to the insurer.

(9) The number of lawsuits filed against the insurers insureds during the calendar year next preceding, to be separately reported by the year the claim occurred.

(10) A distribution by size of payment for those claims closed during the calendar year next preceding, showing the number of claims and total amount paid for each monetary category, as determined by the commissioner.

CHAPTER 1027

An act to add Sections 779, 780, 10010, 10011, 12823, 12824, 16482 and 16483 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 779 is added to the Public Utilities Code, to read:

779. (a) No electrical, gas. heat, or water corporation may terminate its service to a residential dwelling on account of nonpayment of a delinquent account unless the corporation first gives notice of such delinquency and impending termination, at least seven calendar days prior to the proposed termination, by first class mail addressed to the customer to whom the service is billed.

(b) No such corporation shall effect termination of service to a residential dwelling for nonpayment during the pendancy of an investigation by the corporation of a customer dispute or complaint.

(c) Any customer who has initiated a complaint or requested an investigation within five days of receiving the contested bill under subdivision (b) shall be given an opportunity for review of such complaint or investigation by a review manager of the corporation. The review shall include consideration of whether the customer should be permitted to amortize the unpaid balance of his account over a reasonable period of time. No termination shall be effected for any customer complying with any such amortization agreement, provided the customer also keeps current his account for utility service as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation has resulted in a determination by a corporation which is subject to the jursidiction of the commission, which is adverse to him may appeal such determination to the commission. Such subsequent appeal to the commission is not subject to the provisions of this section.

(e) If a customer fails to comply with an amortization agreement, the corporation shall not terminate service without giving notice to the customer, in accordance with the provisions of subdivision (a), of the conditions the customer must meet to avoid termination, but such notice shall not entitle the customer to further investigation by the corporation.

SEC. 2. Section 780 is added to the Public Utilities Code, to read:

780. No electrical, gas, heat, or water corporation shall, by reason of delinquency in payment for any electric, gas, heat, or water services, cause cessation of any such services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the corporation are not open to the public.

SEC. 3. Section 10010 is added to the Public Utilities Code, to read:

10010. (a) No electrical, gas, heat, or water public utility may terminate its service to a residential dwelling on account of nonpayment of a delinquent account unless the public utility first gives notice of such delinquency and impending termination, at least seven calendar days prior to the proposed termination, by first class mail addressed to the customer to whom the service is billed.

(b) No such public utility shall effect termination of service to a residential dwelling for nonpayment during the pendancy of an investigation by the public utility of a customer dispute or complaint.

(c) Any customer who has initiated a complaint or requested an investigation within five days of receiving the contested bill under subdivision (b) shall be given an opportunity for review of such complaint or investigation by a review manager of the public utility. The review shall include consideration of whether the customer should be permitted to amortize the unpaid balance of his account over a reasonable period of time. No termination shall be effected for any customer complying with any such amortization agreement, provided the customer also keeps current his account for utility service as charges accrue in each subsequent billing period.

(d) If a customer fails to comply with an amortization agreement, the public utility shall not terminate service without giving notice to the customer, in accordance with the provisions of subdivision (a), of the conditions the customer must meet to avoid termination, but such notice shall not entitle the customer to further investigation by the public utility.

SEC. 4. Section 10011 is added to the Public Utilities Code, to read:

10011. No electrical, gas, heat, or water public utility shall, by reason of delinquency in payment for any electric, gas, heat, or water services, cause cessation of any such services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the public utility are not open to the public.

SEC. 5. Section 12823 is added to the Public Utilities Code, to read:

12823. (a) No electrical, gas, heat, or water municipal utility district may terminate its service to a residential dwelling on account of nonpayment of a delinquent account unless the public utility first

gives notice of such delinquency and impending termination, at least seven calendar days prior to the proposed termination, by first class mail addressed to the customer to whom the service is billed.

(b) No such district shall effect termination of service to a residential dwelling for nonpayment during the pendancy of an investigation by the district of a customer dispute or complaint.

(c) Any customer who has initiated a complaint or requested an investigation within five days of receiving the contested bill under subdivision (b) shall be given an opportunity for review of such complaint or investigation by a review manager of the district. The review shall include consideration of whether the customer should be permitted to amortize the unpaid balance of his account over a reasonable period of time. No termination shall be effected for any customer complying with any such amortization agreement, provided the customer also keeps current his account for utility service as charges accrue in each subsequent billing period.

(d) If a customer fails to comply with an amortization agreement, the district shall not terminate service without giving notice to the customer, in accordance with the provisions of subdivision (a), of the conditions the customer must meet to avoid termination, but such notice shall not entitle the customer to further investigation by the district.

SEC. 6. Section 12824 is added to the Public Utilities Code, to read:

12824. No electrical, gas, heat, or water municipal utility district shall, by reason of delinquency in payment for any electric, gas, heat, or water services, cause cessation of any such services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the district are not open to the public.

SEC. 7. Section 16482 is added to the Public Utilities Code, to read:

16482. (a) No electrical, gas, heat, or water public utility district may terminate its service to a residential dwelling on account of nonpayment of a delinquent account unless the district first gives notice of such delinquency and impending termination, at least seven calendar days prior to the proposed termination, by first class mail addressed to the customer to whom the service is billed.

(b) No such district shall effect termination of service to a residential dwelling for nonpayment during the pendancy of an investigation by the district of a customer dispute or complaint.

(c) Any customer who has initiated a complaint or requested an investigation within five days of receiving the contested bill under subdivision (b) shall be given an opportunity for review of such complaint or investigation by a review manager of the district. The review shall include consideration of whether the customer should be permitted to amortize the unpaid balance of his account over a reasonable period of time. No termination shall be effected for any customer complying with any such amortization agreement, provided the customer also keeps current his account for utility service as charges accrue in each subsequent billing period.

(d) If a customer fails to comply with an amortization agreement,

the district shall not terminate service without giving notice to the customer, in accordance with the provisions of subdivision (a), of the conditions the customer must meet to avoid termination, but such notice shall not entitle the customer to further investigation by the district.

SEC. 8. Section 16483 is added to the Public Utilities Code, to read:

16483. No electrical, gas, heat, or water public utility district shall, by reason of delinquency in payment for any electric, gas, heat, or water services, cause cessation of any such services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the district are not open to the public.

SEC. 9. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act authorizes a revenue source, or makes local governments eligible for a revenue source, that may be utilized by local governments to cover the cost of the mandate.

CHAPTER 1028

An act to amend Section 2005 of the Fish and Game Code, relating to fish and game.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 2005 of the Fish and Game Code is amended to read:

2005. It is unlawful to use an artificial light to assist in the taking of game birds, game mammals, or game fish, except that this section shall not apply to sport fishing in ocean waters or other waters where night fishing is permitted if the lights are not used on or as part of the fishing tackle, commercial fishing, nor to the taking of mammals, the taking of which is governed by Article 2 (commencing with Section 4180) of Chapter 3, Part 3, Division 4.

It is unlawful for any person, or one or more persons, to throw or cast the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon any game mammal, fur-bearing mammal, or nongame mammal, while having in his possession or under his control any firearm or weapon with which such mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.

It is unlawful to use or possess at any time any infrared or similar light used in connection with an electronic viewing device

sometimes designated as a sniperscope to assist in the taking of birds, mammals, amphibia, or fish.

The provisions of this section shall not apply to the following:

(a) To the use of a hand held flashlight no larger, nor emitting more light, than a two-cell, three-volt flashlight, provided such light is not affixed in any way to a weapon, or to the use of a lamp or lantern which does not cast a directional beam of light.

(b) In the case of headlights of a motor vehicle operated in a usual manner and there is no attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.

(c) To the owner, or his employee, of land devoted to the agricultural industry while on such land, or land controlled by such an owner and in connection with such agricultural industry.

(d) To such other uses as the commission may authorize by regulation.

No person shall be arrested for violation of this section except by a peace officer.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1029

An act to amend Sections 55523, 55861, 55863, 56161, 56252, 56571, and 56574 of, and to add Sections 55409, 55862.7, and 56573.5 to, the Food and Agricultural Code, relating to agriculture marketing, and making an appropriation therefor.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 55409 is added to the Food and Agricultural Code, to read:

55409. "Second handler" means any person engaged in the business of processing or manufacturing any farm product, that solicits, buys, contracts to buy, or otherwise takes title to, or possession or control of, any farm product from a licensed processor for the purpose of processing or manufacturing it and selling, reselling, or redelivering it in any dried, canned, extracted, fermented, distilled, frozen, eviscerated, or other preserved or processed form. It does not, however, include any retail merchant

that has a fixed or established place of business in this state and does not sell at wholesale any farm product which is processed or manufactured by him.

SEC. 2. Section 55523 of the Food and Agricultural Code is amended to read:

55523. Each application shall state all of the following:

(a) The full name of the applicant.

(b) If the applicant is a firm, exchange, association, or corporation the full name of each member of the firm, or the names of the officers of the exchange, association, or corporation.

(c) The principal business address of the applicant in this state.

(d) The name of every person that is authorized to receive and accept service of summons for the applicant.

(e) In addition to the other requirements of this chapter, with the exception of second handlers, whose volume is under twenty thousand dollars ($20,000), each applicant for a license, except for the renewal of any such license, shall include a balance sheet, or statement of financial position, which presents fairly the financial condition as of the applicant's most recent yearend. Such financial statement if not prepared by a public accountant or certified public accountant shall be on a form prescribed by the director and shall be submitted under penalty of perjury. Any balance sheet submitted which does not provide the detail required by the director may be rejected until such detail is provided.

(f) If at any time the director has cause or reason to believe that any licensee is in an unsound financial condition so as to impair his ability to pay consignor-creditors or producer-creditors in full for farm products received or handled, or for any reason deems it advisable, he may require such licensee to file with him a balance sheet or statement of financial position, which presents fairly the financial condition of such licensee. Such financial statement, if not prepared by a public accountant or certified public accountant, shall be on a form prescribed by the director and shall be submitted under penalty of perjury. Any balance sheet submitted which does not provide the detail required by the director may be rejected until such detail is provided.

(g) Failure to file a financial statement as required by this chapter is a violation of this chapter.

SEC. 3. Section 55861 of the Food and Agricultural Code is amended to read:

55861. (a) Except as otherwise provided in this article or in Section 56574, each applicant for a license shall pay to the director a fee in accordance with the schedule in subdivision (b) of this section, except an agent who shall pay thirty-five dollars ($35) for each license period of the principal.

(b) The amount of the fee due each year from the applicant shall be determined by the annual dollar volume of business based on the value of the farm products that is returned to the grower or supplier, as follows:

(1) A dollar volume of under twenty thousand dollars ($20,000), the fee shall be twenty-five dollars ($25).

(2) A dollar volume of twenty thousand dollars ($20,000), and over, but under fifty thousand dollars ($50,000), the fee shall be two hundred dollars ($200).

(3) A dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be three hundred dollars ($300).

(4) A dollar volume of two million dollars ($2,000,000) and over, the fee shall be four hundred dollars ($400).

SEC. 4. Section 55862.7 is added to the Food and Agricultural Code, to read:

55862.7. If any person is found to be operating a business without the license required by Section 55861, such person shall pay to the director all the license fees due pursuant to this chapter for all the business transacted during the period such person operated without such license.

SEC. 5. Section 55863 of the Food and Agricultural Code is amended to read:

55863. Any person that has applied for and obtained a license pursuant to the provisions of this chapter may apply for and secure a license under Chapter 7 (commencing with Section 56101) of this division, by filing an application which is accompanied by a fee determined by the dollar volume of business based on the value of the farm products that is returned to the grower or supplier, as follows:

(a) A dollar volume of under fifty thousand dollars ($50,000), the fee shall be fifty dollars ($50).

(b) A dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be seventy-five dollars ($75).

(c) A dollar volume of two million dollars ($2,000,000) and over, the fee shall be one hundred dollars ($100).

This license shall be known as a "conjunctive license."

SEC. 6. Section 56161 of the Food and Agricultural Code is amended to read:

56161. This chapter does not apply to or include any of the following:

(a) Any nonprofit cooperative association which is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of this division or similar law of any other state, the District of Columbia, or the United States, or the agents of such organizations in the performance of their duties as such, except as to that portion of the activities of such organization, or agent, which involves the handling or dealing in any farm product of any nonmember of such organization.

(b) Any person or exchange that buys, receives, or otherwise handles any farm product as a processor, as that term is defined in Section 55407.

(c) Any retail merchant that has a fixed or established place of business in this state. This exemption of retail merchants does not, however, apply to retail merchants that also are engaged in the business of selling at wholesale any farm product which is purchased from a producer, dealer, broker, or commission merchant, to any transaction wherein possession of any farm product is obtained from a producer, dealer, broker, or commission merchant and the farm product is sold to another person without being handled in the regular course of a retail business which is conducted at a fixed and established place of business.

(d) Any person that buys any farm product for his own use or consumption.

(e) Any person licensed as a distributor or handler under Chapter 2 (commencing with Section 61801) of Part 3 of Division 21, who purchases farm products from a dealer, broker, or commission merchant. However, this chapter applies to any such licensed person who purchases farm products from a producer.

SEC. 7. Section 56571 of the Food and Agricultural Code is amended to read:

56571. (a) Except as otherwise provided in this article, or Section 55863, each applicant for a license shall pay to the director a fee in accordance with the schedule in subdivision (b) of this section, except an agent who shall pay thirty-five dollars ($35) for each license period of the principal.

(b) The amount of the fee due each year from the applicant shall be determined by the annual dollar volume of business based on the value of the farm products that is returned to the grower or supplier, as follows:

(1) A dollar volume of under twenty thousand dollars ($20,000), the fee shall be twenty-five dollars ($25).

(2) A dollar volume of twenty thousand dollars ($20,000), and over but under fifty thousand dollars ($50,000), the fee shall be two hundred dollars ($200).

(3) A dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be three hundred dollars ($300).

(4) A dollar volume of two million dollars ($2,000,000) and over, the fee shall be four hundred dollars ($400).

SEC. 8. Section 56252 of the Food and Agricultural Code is amended to read:

56252. In addition to the other requirements of this chapter, each application for a license, except for the renewal of any such license, other than a cash buyer, or second handler whose volume is under twenty thousand dollars ($20,000), shall include a balance sheet, or statement of financial position, which presents fairly the financial condition as of the applicant's most recent yearend. Such financial statement if not prepared by a public accountant or certified public accountant shall be on a form prescribed by the director and shall be submitted under penalty of perjury. Any balance sheet submitted

which does not provide the detail required by the director may be rejected until such detail is provided.

SEC. 9. Section 56573.5 is added to the Food and Agricultural Code, to read:

56573.5. If any person is found to be operating a business without the license required by Section 56181, such person shall pay to the director all the license fees due pursuant to this chapter for all the business transacted during the period such person operated without such license.

SEC. 10. Section 56574 of the Food and Agricultural Code is amended to read:

56574. Any person that has applied for and obtained a license pursuant to the provisions of this chapter may apply for and secure a license as a processor pursuant to Chapter 6 (commencing with Section 55401) of this division, by filing an application which is accompanied by a fee determined by the dollar volume of business based on the value of the farm products that is returned to the grower or supplier, as follows:

(a) A dollar volume of under fifty thousand dollars ($50,000), the fee shall be fifty dollars ($50).

(b) A dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be seventy-five dollars ($75).

(c) A dollar volume of two million dollars ($2,000,000) and over, the fee shall be one hundred dollars ($100).

This license shall be known as a "conjunctive license."

CHAPTER 1030

An act to amend Sections 15770 and 15901 of, to add Sections 15770.1 and 15901.6 to, and to add Chapter 5 (commencing with Section 15799) to Part 10.5 of Division 3 of Title 2 of, the Government Code, relating to public works.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 15770 of the Government Code is amended to read:

15770. There is in the state government the State Public Works Board. The board consists of the Director of Finance, the Director of Transportation, and the Director of General Services. Three Members of the Senate, appointed by the Senate Committee on Rules, and three Members of the Assembly, appointed by the Speaker, shall meet with and participate in the work of the board to the extent that such participation is not incompatible with their

positions as Members of the Legislature. The appointed Members of the Legislature constitute a legislative interim committee on the subject of this part with all the powers and duties imposed upon such committees by the Joint Rules of the Legislature.

SEC. 1.5. Section 15770.1 is added to the Government Code, to read:

15770.1. The Director of the Employment Development Department shall meet with and advise the board whenever the board is engaged in activities imposed by Section 15796.

SEC. 2. Chapter 5 (commencing with Section 15799) is added to Part 10.5 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5. EMERGENCY PUBLIC WORKS

15799. The Legislature finds and declares that properly timed capital outlays for needed public works are an important instrument for combatting unemployment and for maintaining a healthy state economy. It is the intent of the Legislature in enacting this chapter to establish procedures whereby an inventory of such public works will be kept in readiness for implementation on short notice when and if funds become available during periods of temporary severe unemployment.

15799.2. The board, pursuant to its powers and duties under subdivision (d) of Section 15790, shall develop and maintain a contingency plan for emergency public works consistent with the intent of this chapter.

15799.4. The contingency plan for emergency public works shall consist of either or both of the following:

(a) Capital outlay or maintenance projects that have never been included in the Governor's Budget or otherwise submitted for legislative review but which, in the opinion of the board, would serve a useful public purpose if implemented; and

(b) Capital outlay or maintenance projects which have been authorized by the Legislature and which in the judgment of the board could be accelerated significantly in implementation to help alleviate unemployment within the intent of this chapter.

15799.6. The board shall submit annually to the Governor in time for incorporation into his economic report to the Legislature as required by Section 15901, a report on the contingency plan for emergency public works. Such report shall identify and describe each project contained in the plan with at least the following information:

(a) The nature of the project and the public purpose to be served.

(b) The location of the project, identification of the labor market or markets from which the direct labor force for the project would be drawn and an estimate of the economic impact of the project on that labor market, as well as on the economy of the state as a whole.

(c) The minimum number of days following assurance of funding required to begin on-site labor on the project.

(d) The cost of the project and possible sources of funds, as well as criteria required to be met to qualify for such funds, if known.

(e) The projected costs of maintenance and operation of the product of such a project upon completion, and the source of funds for such maintenance and operation.

(f) The environmental impact report on the project, if required.

(g) If more than one such project is proposed that will impact on the same labor market, a priority ranking for each such project and the reasons for such ranking.

SEC. 3. Section 15901 of the Government Code is amended to read:

15901. (a) The Governor, utilizing his staff and the resources of state agencies responsible to him in preparation thereof, shall transmit annually to the Legislature not later than the 60th calendar day of each regular session an economic report setting forth:

(1) A review of economic developments during the preceding calendar year, including trends in employment, unemployment, income, and major economic sectors as appropriate;

(2) Forecasts of trends in employment, income, and prices for the coming year, and trends in such major economic sectors as it is feasible to present;

(3) Additional material on the California economy as may be pertinent and of general interest, with historical analysis and projections of use in economic planning whenever possible.

(4) A summary of the contingency plan for emergency public works submitted pursuant to Section 15798, as revised by him, and a statement which estimates the probability of implementation of all or part of such contingency plan during the ensuing year and which sets forth the economic and other criteria under which he will order such plan implemented if he deems it necessary and appropriate to do so.

(b) In conjunction with the economic report, the Governor shall present an economic message reviewing significant economic achievements of the past year, outlining problem areas, and defining economic policy, and shall make recommendations as may be appropriate for programs to further economic development, or increase employment, income, and purchasing power in the state.

(c) The Governor may transmit from time to time to the Legislature reports supplementary to the economic report, each of which shall include a statement on the current status of the California economy with respect to employment, income, and prices, and supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in the policy for economic development.

SEC. 4. Section 15901.6 is added to the Government Code, to read:

15901.6. In addition to the requirements of Section 15901.5, the Governor shall in the supplement to his economic message designated the "Economic Report of the Governor" set forth a summary of the contingency plan for emergency public works

submitted pursuant to Section 15708, as revised by him, and a statement which estimates the probability of implementation of all or part of such contingency plan during the ensuing year and which sets forth the economic and other criteria under which he will order such plan implemented if he deems it necessary and appropriate to do so.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 352 are both chaptered and become effective January 1, 1978, if this bill amends Section 15901 of the Government Code, if Senate Bill No. 352 repeals Section 15901 of and adds Sections 15901 and 15901.5 to the Government Code, and if this bill is chaptered after Senate Bill No. 352, that Section 15901.6 of the Government Code as added by Section 4 of this act shall become operative and Section 15901 of the Government Code is amended by Section 3 of this act shall not become operative. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 352 are both chaptered and become effective January 1, 1978, if this bill amends Section 15901 and Senate Bill No. 352 repeals Section 15901 and adds Sections 15901 and 15901.5, and if this bill is chaptered after Senate Bill No. 352, in which event Section 3 of this act shall not become operative.

CHAPTER 1031

An act directing the transfer of the real property of the Modesto State Hospital facility.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. The Director of General Services shall sell, for 50 percent of current market value and upon such terms and conditions as the director finds in the best interests of the state, the real property and improvements thereon of the Modesto State Hospital facility comprising 30.19 acres, more or less, and more particularly described in Section 3 of Chapter 291 of the Statutes of 1970 to the Yosemite Community College District.

SEC. 2. The property conveyed by Section 1 of this act shall be used for a regional instructional center and for related or supportive instructional purposes as provided in the terms of the lease thereof executed pursuant to the provisions of Chapter 433 of the Statutes of 1972. The deed or other instrument of conveyance shall contain a statement that in the event the real property ceases to be used as a regional instructional center and for related or supportive instructional purposes, the real property shall revert to the state.

SEC. 3. As to any property conveyed pursuant to this act, the

Director of General Services shall reserve to the state all mineral deposits, as defined by Section 6407 of the Public Resources Code.

CHAPTER 1032

An act to add Article 7 (commencing with Section 13550) to Chapter 7 of Division 7 of the Water Code, relating to waste water reuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Article 7 (commencing with Section 13550) is added to Chapter 7 of Division 7 of the Water Code, to read:

Article 7. Waste Water Reuse

13550. The Legislature hereby finds and declares that the use of potable domestic water for the irrigation of greenbelt areas, including, but not limited to, cemeteries, golf courses, parks, and highway landscaped areas, is a waste or an unreasonable use of such water within the meaning of Section 2 of Article X of the California Constitution when reclaimed water which the state board, after notice and a hearing, finds meets the following conditions is available:

(a) The source of reclaimed water is of adequate quality for such use and is available for such use.

(b) Such reclaimed water may be furnished to such greenbelt areas at a reasonable cost for facilities for such delivery. In determining reasonable cost, the state board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying potable domestic water to affected greenbelt areas and the present and projected costs of supplying reclaimed water to such areas, and shall find that the cost of supplying such reclaimed water is comparable to, or less than, the cost of supplying such potable domestic water.

(c) After concurrence with the Department of Health, the use of reclaimed water from the proposed source will not be detrimental to public health.

(d) Such use of reclaimed water will not adversely affect downstream water rights, will not degrade water quality, and is determined not to be injurious to plantlife.

The state board may require a public agency to furnish such information as may be relevant to making the findings required by this section.

13551. A public agency, including a state agency, city, county, city

and county, district, or any other political subdivision of the state, shall not use water of quality suitable for potable domestic use for the irrigation of greenbelt areas when suitable reclaimed water is available as provided in Section 13550.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Especially in this year of extreme water shortage the use of high quality domestic drinking water for uses which can be served by reuse of suitable, treated waste water should be curtailed wherever possible. In order that such reuse is implemented in the soonest practicable time, it is necessary, therefore, that this act take effect immediately.

CHAPTER 1033

An act to amend Section 14132 of, and to add Section 14132.1 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services,

including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

SEC. 1.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, licensed clinical social work psychotherapy as defined in Section 9049 of the Business and Professions Code, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

SEC. 1.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set

forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.5 (commencing with Section 14520) of this part.

SEC. 1.9. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, licensed clinical social work psychotherapy as defined in Section 9049 of the Business and Professions Code, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician

services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.5 (commencing with Section 14520) of this part.

SEC. 2. Section 14132.1 is added to the Welfare and Institutions Code, to read:

14132.1. As used in this chapter "surgical center" means a surgical clinic that is licensed under Section 1203 of the Health and Safety Code. Pursuant to Section 14105, the Director of Health shall establish the rates of payment for services provided by surgical centers, and such rates shall be determined upon the basis of reasonable cost.

SEC. 3. (a) It is the intent of the Legislature that if this bill and Assembly Bill No. 438 or Assembly Bill No. 1611, or both, are chaptered and become effective January 1, 1978, and each of the bills amends Section 14132 of the Welfare and Institutions Code, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill No. 438 are both chaptered and become effective January 1, 1978, both bills amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1611 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 438, then Section 14132 of the Welfare and Institutions Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 438, and on the operative date of Assembly Bill No. 438 Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall be further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 14132 proposed by Assembly Bill No. 438. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 438 are both chaptered and become effective January 1, 1978, both bills amend

Section 14132, this bill is chaptered after Assembly Bill No. 438, and Senate Bill No. 35 is not chaptered or as chaptered does not amend that section, in which case Section 1.5 of this act shall become operative on April 1, 1978.

(2) If this bill and Assembly Bill No. 1611 are both chaptered and become effective January 1, 1978, both bills amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 438 is not chaptered, is chaptered after this bill, or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1611, the amendments proposed by both this bill and Assembly Bill No. 1611 shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.7 of this act. Therefore, if this bill and Assembly Bill No. 1611 are both chaptered and become effective January 1, 1978, both bills amend Section 14132, this bill is chaptered after Assembly Bill No. 1611, and Assembly Bill No. 438 is not chaptered, is chaptered after this bill, or as chaptered does not amend that section, Section 1.7 shall be operative and Sections 1, 1.5, and 1.9 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 438 and Assembly Bill No. 1611 are all chaptered and become effective January 1, 1978, all three bills amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 438 and Assembly Bill No. 1611, Section 14132 of the Welfare and Institutions Code shall be amended in the form set forth in Section 1.7 of this act to incorporate the changes proposed by both this bill and Assembly Bill No. 1611. However, in such case, Section 14132, as amended by Section 1.7 of this act shall remain operative only until April 1, 1978, and on April 1, 1978, shall be further amended in the form set forth in Section 1.9 of this act to incorporate the changes in Section 14132 proposed by Assembly Bill No. 438. Therefore, Section 1.9 of this act shall become operative only if this bill and Assembly Bill No. 438 and Assembly Bill No. 1611 are all chaptered and become effective January 1, 1978, all three bills amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 438 and Assembly Bill No. 1611, in which case Section 1.9 of this act shall become operative on April 1, 1978.

(b) If neither Assembly Bill No. 438 nor Assembly Bill No. 1611 is chaptered and becomes effective January 1, 1978, or if neither of such bills amends Section 14132 of the Welfare and Institutions Code, and except as otherwise provided by subdivision (a) of this section, Section 14132 shall be amended in the form set forth in Section 1 of this act.

CHAPTER 1034

An act to add and repeal Section 6705.7 of the Financial Code, relating to savings and loan associations.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 6705.7 is added to the Financial Code, to read:

6705.7. Subject to the rules and regulations of the commissioner, an association may invest an amount not in excess of 2 percent of its total assets in loans, advances of credit, and interests therein, secured by commercial real property which are not otherwise authorized. The provisions of this section shall remain in effect until January 1, 1980, and on such date are repealed.

CHAPTER 1035

An act to amend Sections 7292, 7295 and 7297 of, and to add Sections 7295.2, 7296.2, 7296.4, 7299.2, 7299.4, 7299.6, and 7299.8 to, the Government Code, relating to bilingual services.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 7292 of the Government Code is amended to read:

7292. Every state agency, as defined in Section 11000, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking people, shall employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person.

SEC. 2. Section 7295 of the Government Code is amended to read:

7295. Any materials explaining services available shall be translated into any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. The determination of when these materials are necessary when dealing

with local agencies shall be left to the discretion of the local agency.

SEC. 3. Section 7295.2 is added to the Government Code, to read:

7295.2. Every state agency which serves a substantial number of non-English-speaking people and which provides materials in English explaining services shall also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency. Whenever notice of the availability of materials explaining services available is given, orally or in writing, it shall be given in English and in the non-English language into which any materials have been translated. This section shall not be interpreted to require verbatim translations of any materials provided in English by a state agency.

SEC. 4. Section 7296.2 is added to the Government Code, to read:

7296.2. As used in Sections 7292 and 7295.2, a "substantial number of non-English-speaking people" are members of a group who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise 5 percent or more of the people served by any local office or facility of a state agency.

SEC. 5. Section 7296.4 is added to the Government Code, to read:

7296.4. As used in Section 7292, "a sufficient number of qualified bilingual persons in public contact positions" is the number required to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking such services; provided, however, that where the local office or facility of the state employs the equivalent of 25 or fewer regular, full-time employees, it shall constitute compliance with the requirements of this chapter if a sufficient number of qualified bilingual persons are employed in public contact positions, or as interpreters to assist those in such positions, to provide the same level of services to non-English-speaking persons as is available to English-speaking persons seeking such services from such office or facility.

SEC. 6. Section 7297 of the Government Code is amended to read:

7297. As used in this chapter, a "public contact position" is a position determined by the agency to be one which emphasizes the ability to meet, contact and deal with the public in the performance of the agency's functions.

SEC. 7. Section 7299.2 is added to the Government Code, to read:

7299.2. The State Personnel Board shall be responsible for informing state agencies of their responsibilities under this chapter and providing state agencies with technical assistance, upon request on a reimbursable basis.

SEC. 8. Section 7299.4 is added to the Government Code, to read:

7299.4. Each state agency shall conduct a survey of each of its local offices annually to determine:

(a) The number of public contact positions in each local office;

(b) The number of bilingual employees in public contact positions, and the languages they speak, other than English;

(c) The number and percentage of non-English-speaking people served by each local office, broken down by native language;

(d) The number of anticipated vacancies in public contact positions; and

(e) Any other relevant information requested by the State Personnel Board.

The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than March 31 of each year.

SEC. 9. Section 7299.6 is added to the Government Code, to read:

7299.6. The results of the survey required to be made by Section 7299.4, along with each agency's plan to comply fully with the requirements of this chapter no later than January 1, 1979, shall be delivered to the State Personnel Board no later than March 31 of each year and shall be included in the board's report to the Legislature, pursuant to Section 7299.4.

SEC. 10. Section 7299.8 is added to the Government Code, to read:

7299.8. It is not the intent of the Legislature in enacting this chapter to prohibit the establishment of bilingual positions, or printing of materials, or use of interpreters, where less than 5 percent of the people served do not speak English or are unable to communicate effectively, as determined appropriate by the state or local agency. It is not the intent of the Legislature in enacting this chapter to require that all public contact positions be filled with bilingual persons.

CHAPTER 1036

An act to amend Section 1343 of, and to repeal Part 3 (commencing with Section 1175) of Division 1 of, the Health and Safety Code, and to amend Sections 14106, 14107, 14254, 14257, 14263, 14264, 14300, 14301, 14302, 14303, 14304, 14304.5, 14308, 14309, 14311, 14312, 14400, 14402, 14405, 14406, 14407, 14408, 14409, 14411, 14412, 14450, 14452, 14452.4, 14455, 14456, 14457, 14458, 14459, 14480 and 14481 of, to amend and renumber Section 14476 of, to add Sections 14016.5, 14204, 14205, 14206, 14251, 14261, 14262, 14303.1, 14303.2, 14313, 14413, 14451, 14451.5, 14452.5, 14452.6, 14453, 14455, 14460, 14461, 14475, 14476, 14478, 14479, and 14482 to, to add Article 7 (commencing with Section 14490) to Chapter 8 of Part 3 of Division 9 of, and to repeal Sections 14106.2, 14251, 14261, 14262, 14302.6, 14306, 14307, 14310,

14313, 14411.1, 14413, 14451, 14453, 14455, 14460, 14475, 14477, 14478, and 14479 of, the Welfare and Institutions Code, relating to prepaid health plans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Part 3 (commencing with Section 1175) of Division 1 of the Health and Safety Code is repealed.

SEC. 2. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plans as defined in subdivisions (f) and (m) of Section 1345.

(b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class or persons or plan contracts, if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(c) The commissioner, upon request of the Director of Health, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health pursuant to Article 7 (commencing with Section 14490), Chapter 8, Part 3, Division 9 of the Welfare and Institutions Code. Such exemption may be subject to such conditions as the commissioner deems appropriate.

(d) The provisions of this chapter shall not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) The provisions of Section 1357 shall not apply to:

(1) A plan, or to any officer. director, or partner of a plan acting in the course of their employment by such plan, unless such officer, director, or partner receives compensation specifically related to the sale of subscriptions or enrollments to the plan.

(2) A provider, or an employee of a provider or of a plan, who disseminates information about the plan only incidentally to such employment and at the unsolicited request of a subscriber, enrollee, or member of the public.

(3) A person who disseminates information concerning plans and plan benefits only as a public employee, only as an employee or representative of a subscriber group, or only as an employee of a person contracting with a plan on behalf of subscribers or enrollees.

SEC. 2.5. Section 14106 of the Welfare and Institutions Code is amended to read:

14106. (a) Notwithstanding any other provisions of law, payment for Medi-Cal fee-for-service inpatient hospital services and inpatient intensive rehabilitation hospital services shall be based on the lesser of reasonable costs, as determined by the director in accordance with applicable federal law, or the hospital's customary charges for such services.

(b) If a Medi-Cal provider negotiates a rate of payment for inpatient, outpatient, or ancillary services with a prepaid health plan under contract with the department pursuant to Chapter 8 (commencing with Section 14200) of this part which is lower than or equal to the lesser of reasonable costs, customary charges, or the schedule of maximum allowances, the rate shall not affect the director's determination of reasonable costs, customary charges, or schedule of maximum allowances.

SEC. 3. Section 14106.2 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 14107 of the Welfare and Institutions Code is amended to read:

14107. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under this chapter or Chapter 8 (commencing with Section 14200) of this part is punishable by imprisonment in the county jail not longer than one year or in the state prison, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment.

The enforcement remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy.

SEC. 5. Section 14016.5 is added to the Welfare and Institutions Code, to read:

14016.5. The director shall require that, at the time of determining or redetermining the eligibility of a Medi-Cal beneficiary who resides in an area served by a prepaid health plan, the county shall inform the Medi-Cal beneficiary of options available

to him regarding methods of receiving Medi-Cal benefits and shall inquire whether the beneficiary wishes to choose any particular method.

SEC. 6. Section 14204 is added to the Welfare and Institutions Code, to read:

14204. Pursuant to the provisions of this chapter, the department may contract with one or more prepaid health plans in order to provide the benefits authorized under this chapter and Chapter 7 (commencing with Section 14000) of this part. Contracts entered into pursuant to this chapter shall be awarded on a nonbid basis.

SEC. 6.1. Section 14205 is added to the Welfare and Institutions Code, to read:

14205. Except where the context otherwise requires, or where specific exceptions are authorized, all provisions of Chapter 7 (commencing with Section 14000) of this part shall be applicable to the provisions of this chapter and the violation of the provisions of this chapter or any rule or regulation adopted pursuant thereto shall be deemed to be a violation of Chapter 7.

SEC. 6.2. Section 14206 is added to the Welfare and Institutions Code, to read:

14206. (a) No prepaid health plan or pilot program shall be deemed to transact insurance or to be subject to any provision of the Insurance Code by virtue of negotiating, executing, or performing a prepaid health plan or pilot program contract under this chapter, or by virtue of compliance with the provisions of such a prepaid health plan or pilot program contract, including, but not limited to, creation, segregation, or maintenance of security to protect or safeguard the performance of such a prepaid health plan or pilot program contract. The director may require such security in respect to any such contract including, but not limited to, securities, surety bonds, or evidences of governmental debt, of the kinds, in the manner, and to the extent provided by the prepaid health plan or pilot program contract.

(b) Prepaid health plans or pilot programs to which the state is a party under the provisions of this chapter, and contracts and arrangements embodying such plans or programs shall not be subject to the provisions of law prescribing the forms of hospital or medical service or insurance contracts or requiring approval thereof or of the form thereof, by any state officer or agency except the director or the department.

This exemption applies, but is not limited to: (1) Chapter 4 (commencing with Section 10270) of Part 2 of Division 2 of the Insurance Code, (2) Section 11069 of the Insurance Code, and (3) Section 11513 of the Insurance Code. However, the exemption provided for in this section shall not exempt any insurer subject to taxation under Part 7 (commencing with Section 12001) of Division 2 of the Revenue and Taxation Code from the tax imposed under such part on gross premiums derived from contracts under this chapter.

SEC. 7. Section 14251 of the Welfare and Institutions Code is repealed.

SEC. 7.1. Section 14251 is added to the Welfare and Institutions Code, to read:

14251. "Prepaid health plan" is any health care service plan which meets all of the following criteria:

(a) Licensed as a health care service plan by the Commissioner of Corporations pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340), Division 2, Health and Safety Code), or has an application for licensure pending and was registered under the Knox-Mills Health Plan Act prior to its repeal (Chapter 941, Statutes of 1975).

(b) Meets the requirements for participation in the Medicaid Program (Title XIX of the Social Security Act) on an at risk basis.

(c) Agrees with the State Department of Health to furnish directly or indirectly health services to Medi-Cal beneficiaries on a predetemined periodic rate basis.

SEC. 7.2. Section 14254 of the Welfare and Institutions Code is amended to read:

14254. "Primary care physician" is a physician who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral for specialist care. A primary care physician shall be either a physician who has limited his practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist, or family practitioner.

SEC. 7.3. Section 14257 of the Welfare and Institutions Code is amended to read:

14257. Nothing in this act shall preclude the director from contracting with licensed specialized health care service plans which provide only dental, pharmaceutical, optometric, or psychological services in accordance with regulations issued by the department.

SEC. 8. Section 14261 of the Welfare and Institutions Code is repealed.

SEC. 8.5. Section 14261 is added to the Welfare and Institutions Code, to read:

14261. "Vendor" means any person who provides services or supplies to a prepaid health plan or a subcontractor of a prepaid health plan and who does not have a subcontract as defined by Section 14253 with either the prepaid health plan or its subcontractors.

SEC. 9. Section 14262 of the Welfare and Institutions Code is repealed.

SEC. 9.5. Section 14262 is added to the Welfare and Institutions Code, to read:

14262. (a) "Actuarial methods" mean any reasonable and adequate method of computing or determining prospective per capita rates of payment which is based upon various assumptions, including "experience data," to determine the expected cost and

expected frequency of utilization (by aid category, age and sex) for each component or grouping of services and other requirements for which the rate or rates will serve as compensation or reimbursement. Initially, expected cost and utilization information shall be developed from recent experience data and then projected over the period for which the per capita rates are to be effective. Such a projection shall be adjusted to take into consideration various actuarial factors, including inflation and requirements, if any, which exceed the program or basis from which the experience data is derived.

(b) "Experience data" mean cost and utilization data from the Medi-Cal fee-for-service or prepaid health plan programs. Such data shall be sufficient in quantity and extent to provide credibility.

(c) "Actuarial equivalence" means the actual per capita costs for Medi-Cal beneficiaries adjusted by age, sex, aid category, and other appropriate factors so as to be comparable with the costs of prepaid health plan enrollees.

(d) "Actuary" or "consulting actuary" means a person who has engaged in the practice of actuarial science and has demonstrated, by training and experience, actuarial competence to the director.

SEC. 10. Section 14263 of the Welfare and Institutions Code is amended to read:

14263. "Marketing" means any activity conducted by or on behalf of a prepaid health plan where information regarding the services offered by a prepaid health plan is disseminated in order to persuade Medi-Cal beneficiaries to enroll or accept any application for enrollment in the prepaid health plan. Marketing shall also include any similar activity to procure the endorsement of the prepaid health plan from any individual or organization.

SEC. 11. Section 14264 of the Welfare and Institutions Code is amended to read:

14264. "Marketing organization" means any subcontractor who agrees to provide marketing services for a prepaid health plan.

SEC. 12. Section 14300 of the Welfare and Institutions Code is amended to read:

14300. The department shall conduct a public hearing at least 30 days prior to the execution of an initial contract with a prepaid health plan and within 60 days prior to the renewal of a prepaid health plan contract to hear and receive evidence on the ability of the prepaid health plan to fulfill its responsibilities under the contract. The hearing shall be conducted in the county within which the prepaid health plan is located, or in the case of a prepaid health plan situated in more than one county, in the county where the largest number of Medi-Cal beneficiaries are enrolled in the plan.

Notice of the time, date, and place of the hearing shall be mailed to the following:

(a) The prepaid health plan applying for the contract or contract renewal.

(b) Medi-Cal beneficiaries enrolled in the prepaid health plan subject to the hearing.

(c) Any interested party who requests notification of public hearings conducted pursuant to this section.

The department shall present evidence and make a finding of fact as to the ability of the prepaid health plan to comply with its previous and proposed contract obligations.

No contract shall be renewed unless the department makes a finding based upon the evidence presented at the public hearing, including evidence presented by the department, that the prepaid health plan has fully complied with its contract obligations.

SEC. 13. Section 14301 of the Welfare and Institutions Code is amended to read:

14301. (a) The department shall determine, by actuarial methods, prospective per capita rates of payment for services provided under this chapter for Medi-Cal beneficiaries enrolled in a prepaid health plan. The rates of payment shall be determined annually, shall be effective no later than the first day of July each year, and shall not exceed the total per capita amount (including cost of administration) which the department estimates (with appropriate adjustments to provide actuarial equivalence) would be payable for all services and requirements covered under the prepaid health plan contract if all such services and requirements were to be furnished to Medi-Cal beneficiaries. In the event that there is any delay in the payment of said new annual rates determined pursuant to this subsection, continued payment to the prepaid health plan of the rate in effect at the time the delay occurred shall be interim payment only, and shall be subject to increase or decrease, as the case may be, to the level of the new annual rates effective as of the first day of July. The per capita rates shall be determined by sound actuarial methods on the basis of age, sex, and aid categories. The contract shall provide the specific per capita rates which the state shall pay the prepaid health plan each month for each beneficiary enrolled in the prepaid health plan, a detailed description of the specific actuarial method or methods and assumptions used in determining per capita rates, and a summary of the data base, including cost and utilization rates, which was used to determine per capita rates. In addition, the director shall engage and rely upon the services of an actuary or consulting actuary in determining prospective per capita rates.

(b) Any prepaid health plan with an operating experience and scale of operation deemed by the department to be insufficient to justify the application of an actuarially determined per capita rate, shall be reimbursed on a cost basis up to the fee-for-service maximum for services provided until such time as the director determines that a per capita lump sum method is reasonable, but not to exceed a period of one year. For purposes of this section, costs shall be net of intercompany profits in those circumstances where any of the following persons have a substantial financial interest, as defined by Section 14478, in any vendor to the prepaid health plan or any vendor to a subcontractor of the plan:

(1) Any person also having a substantial financial interest in the plan.

(2) Any director, officer, partner, trustee or employee of the plan.

(3) Any member of the immediate family of any person designated in (1) or (2).

(c) In the event that during a contract term, or at the time of contract renewal in those instances where the time of contract renewal differs from the time of annual rate determination, any change occurs which was unforeseen or not considered at the time per capita rates were determined and which affects the validity of any of the results of the actuarial methods used in determining per capita rates, or any change occurs in the obligations of any prepaid health plan affecting the cost to the prepaid health plan of performing the contract, where changes are required by a change in federal or state law or regulation, or by a change in the interpretation and implementation of the law or regulation by the department, the per capita rates determined pursuant to subdivision (a) shall be redetermined in the manner provided by subdivision (a) to reflect such change. During such period of time as is required to redetermine the per capita rates, the continued payment to a prepaid health plan of the per capita rates in effect at the time the change in the obligation of the prepaid health plan is made shall be considered interim payments and shall be subject to increase or decrease, as the case may be, effective as of the first day of the month in which the change in the obligation of the prepaid health plan is effective.

(d) The obligations of a prepaid health plan shall be changed only by contract or contract amendment wherein payment for the changes, whether payment results in an increase or decrease in the prior per capita rates paid to a prepaid health plan, shall be determined in accordance with this section and paid to affected prepaid health plans at the time the changes are effective.

(e) Nothing contained in this section shall be construed as removing from a prepaid health plan the risk of beneficial or adverse effects, including inflation, which normally result from contracting to furnish health services.

SEC. 14. Section 14302 of the Welfare and Institutions Code is amended to read:

14302. Except as provided in Section 14490, the duration of initial contracts entered into pursuant to this chapter shall be for a maximum of one year and of renewed contracts for a maximum of two years.

SEC. 15. Section 14302.6 of the Welfare and Institutions Code is repealed.

SEC. 16. Section 14303 of the Welfare and Institutions Code is amended to read:

14303. No contract between the department and the prepaid health plan shall be amended without the public hearing as required

in Section 14300 if such amendments make any of the following changes in the contract:

(a) Reduction in the scope or availability of services.

(b) Enlargement of the service area.

(c) Increase in the maximum enrollment permitted under the contract.

(d) Any other change in the plan's organization, operation, or delivery of services which the director determines will have a substantial impact on the ability of enrollees to obtain health care services.

SEC. 17. Section 14303.1 is added to the Welfare and Institutions Code, to read:

14303.1. The department shall have authority to amend a prepaid health plan contract in accordance with the terms of a merger of a prepaid health plan with another organization or organizations other than the plan's subsidiary corporation, its parent corporation, or another subsidiary of its parent corporation, provided the surviving organization meets the following conditions:

(a) The surviving organization assures the continued and accessible delivery of health care services to enrollees.

(b) The plans concerned have satisfactorily demonstrated the fiscal and administrative soundness of the newly proposed organization.

(c) The enrollees of the plans concerned are informed of the impending merger, any resulting changes in the service area or delivery of health care services, and such other information required by subdivision (a) of Section 14406 at least 30 days in advance of the merger.

(d) The enrollees of the plans concerned are given the option of disenrolling for any cause within 60 days following the effective date of the merger.

(e) A public hearing is held as required by Section 14300.

(f) The organization meets such other requirements as deemed necessary by the department in order to carry out the purpose of this chapter.

SEC. 18. Section 14303.2 is added to the Welfare and Institutions Code, to read:

14303.2. The department shall have authority to amend a prepaid health plan contract in accordance with the terms of the reorganization of a prepaid health plan or a merger of the plan with its subsidiary corporation, its parent corporation, or another subsidiary of its parent corporation, provided the following conditions are met:

(a) The resulting or surviving organization assures the continued and accessible delivery of health care services to enrollees.

(b) The plan has satisfactorily demonstrated the fiscal and administrative soundness of the newly proposed organization.

(c) If the proposed reorganization or merger results in any change of the plan's service area or delivery of health care services,

or if the director otherwise deems it to be appropriate, the following additional conditions shall be met:

(1) A public hearing is held as required by Section 14300.

(2) The enrollees of the plan are informed of the impending reorganization or merger, any resulting changes in the service area or delivery of health care services, and such other information required by subdivision (a) of Section 14406 at least 30 days in advance of the reorganization or merger.

(3) The enrollees of the plan are given the option of disenrolling for any cause within 60 days following the effective date of the reorganization or merger.

(d) The plan meets such other requirements as deemed necessary by the department in order to carry out the purpose of this chapter.

SEC. 19. Section 14304 of the Welfare and Institutions Code is amended to read:

14304. (a) The director shall terminate a contract with a prepaid health plan if he finds that the standards prescribed in this chapter, the regulations, or the contract are not being complied with, that claims accrued or to accrue have not or will not be recompensed, or for other good cause shown. The director shall give reasonable notice of his intention to terminate the contract to the prepaid health plan, to Medi-Cal beneficiaries enrolled in the plan, and others who may be directly interested, including such other persons and organizations as the director may deem necessary. The notice shall state the effective date of, and the reason for, the termination.

(b) In lieu of contract termination specified in subdivision (a), the director shall have the power and authority to take one or more of the following actions against a contractor for noncompliance with the standards prescribed in this chapter, the regulations or the contract:

(1) Suspend enrollment and marketing activities.

(2) Require the contractor to suspend or terminate contractor personnel or subcontractors.

(3) Impose civil penalties not to exceed five thousand dollars ($5,000) per violation pursuant to regulations adopted by the director.

(c) Notwithstanding subdivision (b), the director shall terminate a contract with a prepaid health plan which the United States Secretary of Health, Education and Welfare has determined does not meet the requirements for participation in the Medicaid Program (Title XIX of the Social Security Act).

(d) The director shall give reasonable notice of his intention to apply any of the sanctions authorized by this section to the prepaid health plan and others who may be directly interested, including such other persons and organizations as the director may deem necessary. The notice shall include the effective date, the duration of, and the reason for each sanction proposed by the director. Proceedings to impose such sanctions shall be governed by the provisions of Chapter 5 (commencing with Section 11500), Part 1,

Division 3, Title 2 of the Government Code. The director may collect civil penalties by withholding the amount from capitation owed to the plan.

SEC. 20. Section 14304.5 of the Welfare and Institutions Code is amended to read:

14304.5. Each prepaid health plan shall provide directly or through subcontractors, not less than the basic scope of health care benefits as defined in Section 14256. The director shall establish the scope and duration of such services and may require other services listed in Section 14053 be provided on a risk or nonrisk basis. The director shall encourage the prepaid health plan to provide all of the services enumerated in Section 14053 on a prepaid basis.

Subject to prior approval by the director, any additional services other than those listed in Section 14053 may be provided at reasonable cost to Medi-Cal enrollees, provided the enrollees are notified of services for which they will be charged and the amount of the charge prior to rendering such services.

SEC. 20.5. Section 14306 of the Welfare and Institutions Code is repealed.

SEC. 21. Section 14307 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 14308 of the Welfare and Institutions Code is amended to read:

14308. Each prepaid health plan shall furnish to the director such information and reports as the director may require by regulation. Such information and reports shall include, but shall not be limited to, statistical information including information by age and sex, and specific mortality and morbidity rates, services supplied, manpower resources, including the availability of bilingual personnel, and costs of health care and administration, compiled from a basic data system, as the department may require. The department shall, to the extent feasible, accept such information and reports as it may require in the same form as such information and reports are furnished by a prepaid health plan to the Commissioner of Corporations pursuant to the provisions of Chapter 2.2, Division 2, of the Health and Safety Code, the Knox-Keene Health Care Service Plan Act of 1975. The department shall annually conduct a survey of beneficiaries to determine their satisfaction with the services provided by the prepaid health plan. The department shall maintain, or require prepaid health plans to maintain, such records and afford access thereto, to verify the information and reports which may be required under this section.

SEC. 23. Section 14309 of the Welfare and Institutions Code is amended to read:

14309. The department shall provide for a continuing study of the quality of care and services resulting from the operation of this chapter and for surveys and reports on prepaid health plans. With respect to such plans contracted for under this chapter, the department may contract with professional organizations for studies

and reports of the experience of such plans as to the standards of care available to eligible persons, gross and net costs, administrative costs, benefits, utilization of benefits, the portion of actual personal expenditures of eligible persons for health care which are being met by prepaid benefits, and the methods of evaluating and improving the quality of, and controlling the costs of, health care provided under such contracts. However, this section shall not be construed to require any prepaid health plan to provide accounting data or statistical data not required by regulations adopted by the director.

SEC. 24. Section 14310 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 14311 of the Welfare and Institutions Code is amended to read:

14311. Prepaid health plans, the services they provide and the persons receiving such services shall not be subject to the limitations on services set forth in Section 14133 or 14133.1, or the provisions of subdivision (c), (d), and (e) of Section 14120, or the fifth paragraph of Section 14105.

Nothing in this section or in Article 7 (commencing with Section 14490) of this chapter shall relieve the director of his responsibility to provide the benefits provided for in Section 14132.

SEC. 26. Section 14312 of the Welfare and Institutions Code is amended to read:

14312. The director shall adopt all necessary rules and regulations to carry out the provisions of this chapter. In adopting such rules and regulations, the director shall be guided by the needs of eligible persons as well as prevailing practices in the delivery of health care.

SEC. 27. Section 14313 of the Welfare and Institutions Code is repealed.

SEC. 28. Section 14313 is added to the Welfare and Institutions Code, to read:

14313. The department shall submit an annual report to the Legislature prior to January 31 of each year on the following:

(a) Initial contracts, locations, number of enrollees, funds encumbered, funds expended.

(b) Renewed contracts, locations, number of enrollees, funds encumbered, funds expended.

(c) Contracts terminated, location, number of enrollees, reason for termination.

(d) Enrollee satisfaction or dissatisfaction as indicated by the beneficiary satisfaction survey, public hearing testimony, and grievance resolution and disenrollment experience.

(e) Experience with regard to quality, utilization, and cost of care as compared among categories of plans defined by significant variables, including, but not limited to, factors such as profit or nonprofit organization and group practice or independent practice association.

(f) Significant violations of the provisions of Article 4 (commencing with Section 14400) or Article 5 (commencing with

Section 14450) of this chapter and sanctions imposed in response thereto.

SEC. 29. Section 14400 of the Welfare and Institutions Code is amended to read:

14400. Every prepaid health plan shall have an open enrollment period at least once every year. During the open enrollment period the plan shall accept up to the limit of its capacity or the limit of its contract, without restrictions, other than those which may be required by the director, Medi-Cal beneficiaries who are eligible to enroll in such plans. Eligible enrollees shall be accepted in the order in which they apply for enrollment.

SEC. 30. Section 14402 of the Welfare and Institutions Code is amended to read:

14402. The prepaid health plan shall enroll only those Medi-Cal beneficiaries who reside within the contract service area. Prepaid health plans shall use a standard application form prescribed by the department which is readily understandable to the enrollees. A beneficiary shall be enrolled in the prepaid health plan when the beneficiary voluntarily signs the enrollment application agreeing to utilize the health services provided by the prepaid plan and his eligibility for enrollment in that plan is verified by validation of the application by the department.

Notwithstanding the provisions of this section requiring voluntary enrollment, the department may approve the transfer of the enrollees of one or more prepaid health plans to another prepaid health plan in accordance with the terms of a merger or reorganization approved by the department pursuant to the conditions set forth in Sections 14303.1 and 14303.2.

SEC. 31. Section 14405 of the Welfare and Institutions Code is amended to read:

14405. The director shall make available such information as is necessary to enable Medi-Cal beneficiaries to exercise an informed choice in receiving benefits under this chapter. For this purpose each prepaid health plan shall provide marketing material to the director for distribution to all prospective enrollees in the plan's service area. Such marketing material shall include the following:

(a) A description of all services and benefits provided by the prepaid health plan.

(b) The location of facilities where benefits and services are provided.

(c) The hours and days when services are available at each of the facilities.

(d) The names of and addresses where each primary care physician, dentist, optometrist, or psychologist provides health services to enrollees of the prepaid health plan.

(e) The names and addresses of each hospital which has agreed to provide health services to the enrollees.

(f) Names and addresses of each pharmacy providing pharmaceutical services to the enrollees.

(g) Public, medically indicated, and emergency transportation arrangements offered by the prepaid health plan.

(h) Any other information as the department may require.

SEC. 32. Section 14406 of the Welfare and Institutions Code is amended to read:

14406. (a) Within seven days after the effective date of enrollment, the prepaid health plan shall provide in writing the following information to a new enrollee or the family unit of the new enrollee:

(1) An appropriate document identifying the enrollee and authorizing the services or benefits to which that person is entitled under the plan subject to verification of eligibility.

(2) A description of all services and benefits provided by the plan.

(3) An explanation of the procedure for obtaining these services and benefits, including the address and telephone number of each primary care physician, dentist, optometrist, psychologist, hospital, pharmacy, and skilled nursing facility where health care benefits may be obtained. In addition, the explanation shall state the hours and days where each of these facilities are open and the services and benefits available.

(4) The location, telephone number, and procedure for securing 24-hour emergency care and an explanation of and procedure for obtaining out-of-area emergency coverage.

(5) Information setting forth the term of enrollment in the prepaid health plan including the causes for which an enrollee shall lose eligibility in the prepaid health plan.

(6) The procedure for processing and resolving any grievance by enrollees. Such information shall include the name, address, and telephone number of the person responsible for resolving grievances or initiating a grievance procedure.

(7) The procedure by which enrollees may request disenrollment.

(8) Any other information essential to the use of the prepaid health plan as may be required by the department.

(b) The information made available under this section shall be revised and distributed annually to each enrollee or enrollee's family unit and whenever there is a change in the services provided or the location where they may be obtained. Except for a change which is unforeseeable, all enrollees affected by the change in service or the location of services shall be notified at least 14 days prior to such a change.

SEC. 33. Section 14407 of the Welfare and Institutions Code is amended to read:

14407. Enrollment in a prepaid health plan shall be voluntary and a prepaid health plan shall not use false advertising or false statements to induce enrollment. No solicitation of enrollees shall include the granting or offering of any monetary or other valuable consideration for enrollment.

SEC. 34. Section 14408 of the Welfare and Institutions Code is amended to read:

14408. (a) Notwithstanding the provisions of Section 14118, and except as otherwise prohibited by law, a prepaid health plan which has entered into a contract with the department pursuant to this chapter may make the benefits known to potential enrollees by methods approved by the department.

(b) No prepaid health plan or marketing organization shall engage in marketing activities prior to written approval by the department. All marketing activities and procedures shall be approved by the department prior to being used by a prepaid health plan or marketing organization. The department may approve, disapprove, or withdraw approval of any marketing activity or procedure. The department shall require the discontinuance of any marketing activity or procedure for which the department withdraws approval.

The prepaid health plan shall be responsible for all presentations by their official representatives and for their ethical and professional conduct.

(c) All printed or illustrated material prepared by the prepaid health plan for dissemination to enrollees or to prospective enrollees shall be submitted to the department prior to such dissemination. The department shall acknowledge receipt of the printed or illustrated material within five days, and shall approve or disapprove such material for dissemination within 60 days after the date of notification that the material has been received. The department may withdraw approval of such material previously approved and order its dissemination discontinued. Where the department notifies the prepaid health plan of its disapproval or withdrawal of approval, the prepaid health plan shall have the right to meet and confer with the director or his designee and demonstrate the purpose and reasonable basis for the distribution of such material to enrollees and potential enrollees.

(d) On or after January 1, 1979, door-to-door solicitation of Medi-Cal enrollees shall be permitted except by regulation of the director. Prior to authorizing a continuation of door-to-door solicitation, the director shall make a written finding of fact, for each county in which the director proposes to permit a continuation of door-to-door solicitation, that alternative methods of marketing and enrollment are insufficient to guarantee enrollment stability for prepaid health plans operating within the county. The authorization to continue door-to-door solicitation shall apply to each county in which the director has made such a finding of fact and shall continue for a period not to exceed one year, except that the director may extend by regulation such authorization an additional year by making a new finding of fact. In permitting door-to-door solicitation of Medi-Cal enrollees, it is the intent of the Legislature that the department shall develop alternative enrollment procedures to maximize enrollment stability and growth in prepaid health plans.

SEC. 35. Section 14409 of the Welfare and Institutions Code is amended to read:

14409. (a) No prepaid health plan, marketing representative, or marketing organization shall in any manner misrepresent themselves, the plans they represent or the Medi-Cal program. Violations of this section shall include, but are not limited to:

(1) False or misleading claims that marketing representatives are employees or representatives of the state, county, or anyone other than the prepaid health plan or the organization by whom they are reimbursed.

(2) False or misleading claims that the prepaid health plan is recommended or endorsed by any state or county agency, or by any other organization which has not certified its endorsement in writing to the prepaid health plan.

(3) False or misleading claims that the state or county recommends that a Medi-Cal beneficiary enroll in a prepaid health plan.

(4) Claims that a Medi-Cal beneficiary will lose his benefits under the Medi-Cal program or any other health or welfare benefits to which he is legally entitled, if he does not enroll in a prepaid health plan.

(b) Violations of any provisions of this article or regulations adopted by the department pursuant to this article shall result in one or more of the following:

(1) Revocation of one or more permitted methods of marketing.

(2) Refusal of the department to accept new enrollments for a period specified by the department.

(3) Refusal of the department to accept enrollments submitted by a marketing representative or organization.

(4) Forfeiture by the plan of all or part of the capitation payments for persons enrolled as a result of such violations.

(5) Requirement that the prepaid health plan in violation of this article personally contact each enrollee enrolled to explain the nature of the violation and inform the enrollee of his right to disenroll.

(6) Application of sanctions as provided in Section 14304.

SEC. 36. Section 14411 of the Welfare and Institutions Code is amended to read:

14411. (a) No prepaid health plan or marketing organization shall solicit prospective enrollees on county premises for benefits or services available pursuant to this chapter except under any one of the following conditions:

(1) Such marketing activities are performed by a county employee under an agreement between the county and the prepaid health plan, and all marketing presentations and materials to be used have been approved by the department.

(2) Such marketing activities are performed by a state employee under an agreement between the department, county, and the prepaid health plan, and all marketing presentations and materials to be used have been approved by the department.

(3) Such marketing activities are performed by a marketing

representative of a prepaid health plan under an agreement between the county, the prepaid health plan and the department, and all marketing presentations and materials to be used have been approved by the department.

(b) No prepaid health plan or marketing organization shall solicit prospective enrollees on state premises for benefits or services available pursuant to this chapter, except under any one of the following conditions:

(1) Such marketing activities are performed by a state employee under an agreement between the department, the Department of General Services, and the prepaid health plan, and all marketing presentations and materials to be used have been approved by the department.

(2) Such marketing activities are performed by a marketing representative of a prepaid health plan under an agreement between the department, the Department of General Services, and the prepaid health plan, and all marketing presentations and materials to be used have been approved by the department.

SEC. 37. Section 14411.1 of the Welfare and Institutions Code is repealed.

SEC. 38. Section 14412 of the Welfare and Institutions Code is amended to read:

14412. (a) The enrollment of a Medi-Cal beneficiary in the prepaid health plan shall not be terminated except for loss of eligibility or for good cause, as determined by the department.

(b) Enrollment may be terminated at the request of the Medi-Cal beneficiary subject to approval by the department. Approval shall be mandatory under the following circumstances:

(1) The beneficiary was enrolled in violation of this article or regulations promulgated by the department pursuant to this article.

(2) Request for disenrollment pursuant to subdivision (c) of Section 14303.1 or subdivision (c) of Section 14303.2.

(3) Request for disenrollment properly submitted to and processed through a grievance procedure approved by the department.

(c) Any Medi-Cal beneficiary enrolled in a prepaid health plan who would remain eligible for Medi-Cal program benefits for four additional months pursuant to Section 14005.8 shall remain enrolled in the prepaid health plan and shall not receive a Medi-Cal card.

(d) It is the intent of the Legislature that the department shall develop such policies and procedures to maximize continuity of care for persons enrolled in prepaid health plans and to insure that the eligibility determination or redetermination process does not unnecessarily interfere with such enrollment or create gaps in the delivery of health services.

SEC. 39. Section 14413 of the Welfare and Institutions Code is repealed.

SEC. 40. Section 14413 is added to the Welfare and Institutions Code, to read:

14413. Requests for disenrollment shall be made to an authorized representative of the prepaid health plan or to the department. All requests for disenrollment, except those submitted pursuant to Sections 14303.1(c), 14303.2(c), or 14409(b)(5), or for other good cause as determined by the director, shall be processed through the prepaid health plan's grievance procedure as approved by the department. Disenrollment requests received by the prepaid health plan shall be submitted to the department, on standard disenrollment forms prescribed by the department, within a reasonable time following the date of such signed request, as determined by the director.

All applications for disenrollment shall be processed by the department within 45 days of the date of enrollee signature. When an enrollee's request for termination is granted, and if he remains eligible for Medi-Cal services, he shall be issued a Medi-Cal card effective not later than the first of the month following the month in which the disenrollment was approved.

SEC. 41. Section 14450 of the Welfare and Institutions Code is amended to read:

14450. No contract between the department and a prepaid health plan shall be approved or renewed unless the providers and the facilities of the prepaid health plan meet the Medi-Cal program standards for participation as established by the director. In addition, a prepaid health plan shall meet the following requirements:

(a) Laboratory services shall be provided only in laboratories which are approved by the department, except such laboratories which are exempt from such approval under Section 1241 of the Business and Professions Code, and which participate in a performance testing program approved by the department, or meet the conditions of participation under Title XVIII of the Social Security Act.

(b) All institutions including, but not limited to, clinics, hospitals, and skilled nursing facilities, shall be licensed by the department, if such licensure is required by law. When appropriate, all health personnel of the prepaid health plan and its subcontractors shall be licensed by their respective licensing boards or agencies.

(c) The prepaid health plan shall demonstrate to the department that it has adequate financial resources, physical facilities, administrative abilities, and soundness of program design, to carry out its contractual obligations. For the purpose of this section "adequate financial resources," as determined by the department, shall not be less than the minimum tangible net equity required of health care service plans by the Commissioner of Corporations pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340), Division 2, Health and Safety Code), and shall include such financial reserves as specified by the department in accordance with established management principles.

(d) The prepaid health plan shall provide not fewer than five

physicians who represent the following specialties of medicine: pediatrics, internal medicine, general surgery, and obstetrics-gynecology; provided, however, the department may determine that in given communities that it is not feasible or medically appropriate to provide all of these specialties. Such determination shall be specifically stated in the contract between the prepaid health plan and the department.

(e) The prepaid health plan shall not enroll more than 1,600 persons per full-time equivalent primary care physician and 1,200 persons per full-time equivalent physician. Such ratios may be adjusted by the department as appropriate to the medical needs of the Medi-Cal population proposed to be served by the plan or if appropriate utilization is made of allied health manpower. Such adjustment shall be specifically stated in the contract between the prepaid health plan and the department.

Each prepaid health plan shall identify each primary care physician by service site and all other physicians by their specialty designation. This information shall be attached to the prepaid health plan contract, but shall not, for purposes of contract amendments, be deemed to be a provision of the contract. Each prepaid health plan shall update quarterly the list of physicians to reflect changes in prepaid health plan staffing. The prepaid health plan shall provide to the department the numbers, qualifications, and responsibilities of all personnel providing health care services.

No enrollment shall be permitted on the basis of part-time primary care physicians except for medical care foundations, independent practice associations, or hospital or health care service plans which have an enrollment of 25,000 or more, 50 percent of which are non-Medi-Cal recipients, and who have a board of directors upon which at least one-third of its members are consumers.

(f) The prepaid health plan shall furnish services in such a manner as to provide continuity of care and, when services are furnished by different providers, referral of patients to such services at such times as may be medically appropriate.

(g) A primary care physician shall be made available to each enrollee to supervise and coordinate the delivery of health care to the enrollee. If the enrollee becomes dissatisfied with his chosen primary care physician, the enrollee shall be able to choose another primary care physician.

(h) All services shall be readily available at reasonable times to all enrollees. To the maximum extent feasible, the prepaid health plan shall make all services readily accessible to all enrollees by decentralizing the services to be provided or by providing transportation to the prepaid health plan facilities if adequate public transportation is not available.

(i) The prepaid health plan shall employ allied health personnel for furnishing of services to the extent that it is reasonable and consistent with good medical practice.

(j) A prepaid health plan servicing a substantial patient

population of a particular racial or ethnic group, or whose primary language is other than English, shall, to the extent feasible, employ staff of that respective racial, ethnic, or linguistic group in sufficient numbers in the prepaid health plan to service the enrollees at all times.

(k) The prepaid health plan shall have the organizational and administrative capacity to provide services under the provisions of this chapter. The prepaid health plan shall demonstrate to the department that medical decisions are rendered by qualified medical personnel, unhindered by fiscal or administrative management.

(*l*) Each prepaid health plan shall be self-managing. All management services shall be provided by employees of the health plan.

This subdivision shall not be construed to limit the ability of a prepaid health plan to contract for data processing, claims processing, legal services, and financial services, provided that such contracted services do not replace or substitute for either the prepaid health plan's policy function or its financial risk.

(m) The administrative cost incurred by a health plan shall be reasonable and necessary and shall comply with the regulations of the Commissioner of Corporations governing administrative costs of a health care service plan.

(n) Each prepaid health plan shall establish a grievance procedure under which enrollees may submit their grievances. Such procedure shall be approved by the department prior to the approval of the contract. The department shall establish standards for such procedures to insure adequate consideration and rectification of enrollee grievances. A prepaid health plan shall make a finding of fact in the case of each grievance processed, a copy of which shall be transmitted to the enrollee. If the enrollee has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 of this division shall be available to resolve all grievances regarding care and administration by the prepaid health plan. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the prepaid health plan. Any changes in a proposed health plan's grievance procedure must be approved by the department before such changes take effect.

(o) The prepaid health plan shall provide the director, for his approval, a plan for marketing its services to Medi-Cal beneficiaries which relates the proposed service to the need for services, and the size of the potential population to be served in the proposed service area.

SEC. 42. Section 14451 of the Welfare and Institutions Code is repealed.

SEC. 43. Section 14451 is added to the Welfare and Institutions Code, to read:

14451. All services under a prepaid health plan contract shall be

provided directly by the prepaid health plan through its employees, or through subcontracts with other firms or individuals, with the following exceptions:

(a) Emergency services to enrollees rendered at nonplan facilities.

(b) Unusual or seldom used health care services provided to enrollees as determined by the director.

SEC. 44. Section 14451.5 is added to the Welfare and Institutions Code, to read:

14451.5. (a) A prepaid health plan contractor may not enter into subcontracts when such an action would remove from the contractor his obligation to bear a significant portion of the risk encountered in providing the covered services.

(b) The prepaid health plan may obtain reinsurance for the cost of providing covered services. Such reinsurance shall not limit the contractor's liability below five thousand dollars ($5,000) per enrollee for any one 12-month period, except that the contractor may also obtain reinsurance for the total cost of services provided to enrollees by noncontractor emergency service providers, and for 90 percent of all costs exceeding 115 percent of its income during any contractor fiscal year.

SEC. 45. Section 14452 of the Welfare and Institutions Code is amended to read:

14452. (a) All subcontracts shall be entered into pursuant to regulations established by the department. All subcontracts shall be in writing, a copy of which shall be transmitted to the department for approval prior to its taking effect.

Each subcontract submitted to the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the prepaid health plan; provided, however, that these provisions shall not apply to a provider who is employed or salaried by the prepaid health plan. The department shall not approve any subcontract in which consideration is determined by a percentage of the primary contractor's payment from the department. This subdivision shall not be construed to prohibit any subcontract in which consideration is determined on a capitation basis.

(b) Each subcontract shall set forth the following:

(1) The estimated number of units of service to be provided.

(2) Sufficient data so that the cost per unit of service under the subcontract can be readily ascertained.

Based on such information and prior to approving the subcontract, the department shall determine whether the subcontractor has the capacity to perform and whether the compensation for performance is reasonable.

(c) All subcontracts to provide health care benefits, including emergency services, shall include specification of the time and days reserved for services to be provided to enrollees and specification of the service to be provided. All subcontracts for inpatient services

shall include specification of the number and type of licensed beds available at the inpatient facility, the average daily bed census by type of bed for the preceding year, and procedures for making such beds available for enrollees. When the prepaid health plan contracts to provide any basic health care benefits through subcontractors, the subcontractors shall meet all of the qualifications required under Section 14450 as appropriate for the services which the subcontractors are required to perform.

(d) Each subcontract shall require that the subcontractor make all of its books and records, pertaining to the goods or services furnished under the terms of the subcontract, available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in California as the department shall designate.

Subcontracts between a prepaid health plan and the subcontractor shall be public records on file with the department. The names of the officers and owners of the subcontractor, stockholders owning more than 10 percent of the stock issued by the subcontractor, and major creditors holding more than 5 percent of the debt of the subcontractor shall be submitted by each prepaid health plan to the department and shall be public records on file with the department.

SEC. 46. Section 14452.4 of the Welfare and Institutions Code is amended to read:

14452.4. Where the prepaid health plan agrees to provide dental services such services shall be provided in a manner that does not require the enrollees to receive prior screening or authorization by nondental personnel.

SEC. 47. Section 14452.5 is added to the Welfare and Institutions Code, to read:

14452.5. Each prepaid health plan shall provide the services of a psychologist and psychiatrist when the prepaid health plan contract requires the provision of mental health services. Mental health services shall be provided so that an enrollee may be seen initially by either a physician or a psychologist, or by psychiatric social workers under qualified supervision as otherwise allowed by law.

SEC. 48. Section 14452.6 is added to the Welfare and Institutions Code, to read:

14452.6. Prepaid health plans, or their subcontractors, shall not bill any enrollee for covered benefits provided under this chapter and for which capitation has been paid, except as provided in Article 7 (commencing with Section 14490) of this chapter. Health care providers shall not seek reimbursement from enrollees for any services provided under this chapter.

SEC. 49. Section 14453 of the Welfare and Institutions Code is repealed.

SEC. 50. Section 14453 is added to the Welfare and Institutions Code, to read:

14453. In compensating directors and officers, the prepaid health plan shall not compensate at a rate substantially greater than the

prevailing charge for similar services in the community. For purposes of this chapter, salaries or other compensation from the prepaid health plan and its subcontractors, excluding reasonable expenses, shall be considered as one.

SEC. 51. Section 14455 of the Welfare and Institutions Code is repealed.

SEC. 51.5. Section 14455 is added to the Welfare and Institutions Code, to read:

14455. The prepaid health plan shall maintain a complete unit medical record for each enrollee. Enrollee medical records shall also include records of all treatment received from subcontractors. Such records shall be maintained and preserved in a manner prescribed by the director and shall be available for review by the department and the United States Department of Health, Education, and Welfare.

SEC. 52. Section 14456 of the Welfare and Institutions Code is amended to read:

14456. The department shall conduct periodic medical audits of each prepaid health plan as often as deemed necessary by the department, but not less than annually. Such medical audits shall include an onsite review of the level and quality of care, the necessity of the services rendered, and the appropriateness of the services provided by the prepaid health plan. The department shall also review the procedures for regulating utilizations, peer review mechanisms, and other internal procedures for assuring quality of care, and grievances relating to medical care and their disposition. Such review shall be conducted by a panel of qualified experts in reviewing the quality of health services provided, whose members shall include physicians and other health care providers.

The review shall be based on criteria and procedures established by the department and data supplied to the department by the prepaid health plan as required in Section 14308. The criteria and procedures established by the department shall be available to the prepaid health plan, the Legislature, and the public at least 60 days prior to conducting reviews. The director shall report the summaries of surveys of each prepaid health plan conducted under this section in the annual report required in Section 14313.

The department shall be authorized to contract with professional organizations to perform the periodic review required by this section. The department, or its designee, shall make a finding of fact with respect to the ability of the prepaid health plan to provide quality health care services, effectiveness of peer review, and utilization control mechanisms, and the overall performance of the prepaid health plan in providing health care benefits to its enrollees.

SEC. 53. Section 14457 of the Welfare and Institutions Code is amended to read:

14457. In addition to the review required by Section 14456, the department shall conduct periodic onsite visits by departmental representatives to include observation of the general operation of

the prepaid health plan, the condition of the facilities for delivering health care, the availability of emergency services, the degree of satisfaction of the enrollees, the operation of the plan's grievance system, and the administrative and financial aspects of the operation of the prepaid health plan.

SEC. 54. Section 14458 of the Welfare and Institutions Code is amended to read:

14458. The prepaid health plan shall establish procedures for continuously reviewing the quality of care, performance of medical personnel, the utilization of services and facilities, and costs. Information derived from such review shall be made available to the department.

SEC. 55. Section 14459 of the Welfare and Institutions Code is amended to read:

14459. The prepaid health plan shall maintain financial records and shall have an annual audit performed by an independent certified public accountant. All certified financial statements shall be filed with the department as soon as practical after the end of the prepaid health plan's fiscal year and in any event, within a period not to exceed 90 days thereafter. These financial statements shall be filed with the department and shall be public records. The department shall have authority and responsibility for establishing uniform accounting and financial reporting procedures for prepaid health plans. The department shall perform routine auditing of prepaid health plan contractors and their affiliated subcontractors. The prepaid health plan shall make all of its books and records available for inspection, examination or copying by the department during normal working hours at the prepaid health plan's principal place of business or at such other place in California as the department shall designate. For good cause, the department may grant an exception to the time when annual financial statements are to be submitted to the department. The annual report required in Section 14313 shall include an itemization of expenditures made by each prepaid health plan for the following categories of expenditures: physician services, inpatient and outpatient hospital services, pharmaceutical services and prescription drugs, dental services, medical transportation services, vision care services, mental health services, laboratory services, X-ray services, enrollee education programs, marketing and enrollment costs, data-processing costs, other administrative costs and health service expenditures and any payments made to subcontractors, and the purposes of the payments, including but not limited to, contributions to election campaigns.

SEC. 56. Section 14460 of the Welfare and Institutions Code is repealed.

SEC. 57. Section 14460 is added to the Welfare and Institutions Code, to read:

14460. In establishing uniform accounting and financial reporting procedures for prepaid health plans pursuant to Section 14459, the director shall coordinate the establishment of such procedures with

the Commissioner of Corporations so as to prevent the commissioner and the director from establishing inconsistent procedures or requirements.

SEC. 58. Section 14461 is added to the Welfare and Institutions Code, to read:

14461. Upon request by the department, each prepaid health plan shall submit to the department a copy of any financial report submitted to any other public or private organization, if such report differs in content or format from any financial report already submitted to the department.

SEC. 59. Section 14475 of the Welfare and Institutions Code is repealed.

SEC. 60. Section 14475 is added to the Welfare and Institutions Code, to read:

14475. (a) No prepaid health plan or pilot program contract shall be approved or renewed by the department pursuant to this chapter if any state officer or state employee or his spouse or minor child has a substantial financial interest, as defined by Section 14478, in any of the following:

(1) The contract or the contracting organization.

(2) Any contract with the contracting organization.

(3) Procurement of a contract for the contracting organization.

(b) As used in subdivision (a), "state officer or state employee" means any person included in Section 14477 and includes any employee in the department who has a direct responsibility for the negotiation, development, or management of a prepaid health plan contracted under the provisions of this chapter. The director shall publish regulations determining the class of employees covered by this subdivision.

SEC. 61. Section 14476 of the Welfare and Institutions Code is amended and renumbered to read:

14477. (a) For purposes of this article, "state officer" means a United States Senator or Member of Congress representing California, the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, State Superintendent of Public Instruction, a Member of the Legislature, or a secretary of a state agency.

(b) For purposes of this article, "state employee" means any staff member of a state agency secretary who holds a policymaking position, any member of the Governor's staff who holds a policymaking position, or any administrative aide or committee consultant of the Legislature. "State employee" includes the appointive or civil service employee of the highest class or grade in each department, system, program, section, or other administrative subdivision of the State Department of Health as defined in regulations adopted by the department.

SEC. 62. Section 14476 is added to the Welfare and Institutions Code, to read:

14476. The chief executive, sole proprietor, or managing partner

of each prepaid health plan shall file with the department an annual statement disclosing any purchases or leases of services, equipment, supplies or real property by the plan from any entity in which any of the following persons have a substantial financial interest as defined by Section 14478:

(a) Any person also having a substantial financial interest in the plan.

(b) Any director, officer, partner, trustee or employee of the plan.

(c) Any member of the immediate family of any person designated in (a) or (b).

SEC. 63. Section 14477 of the Welfare and Institutions Code is repealed.

SEC. 64. Section 14478 of the Welfare and Institutions Code is repealed.

SEC. 65. Section 14478 is added to the Welfare and Institutions Code, to read:

14478. (a) As used in this chapter, "substantial financial interest" means the ownership of common stock, preferred stock, warrants, options, loans, partnership interests, debt instruments, or other ownership interest, if consisting of, or convertible to, equity investments in an entity contracting with the department under the provisions of this chapter or an entity contracting with a current or proposed contractor doing business with the department under the provisions of this chapter, and such ownership interest in terms of fair market value is not less than the greater of the following:

(1) One thousand dollars ($1,000).

(2) Five percent or more of the total fair market value of all equity investments in the entity, including ownership interests convertible to such investments.

A convertible debt includes bonds, notes, debentures, and mortgages.

(b) As used in this chapter, "immediate family" means an individual's spouse and minor dependent children and any other person over which the individual has legal control.

SEC. 66. Section 14479 of the Welfare and Institutions Code is repealed.

SEC. 67. Section 14479 is added to the Welfare and Institutions Code, to read:

14479. (a) No prepaid health plan or pilot program contract shall be approved, renewed or continued by the department if a state officer or state employee is employed in a management or consultant position by the contractor or a subcontractor to the contractor within one year after the state officer or state employee terminated state employment.

(b) For purposes of this section, "state employee" means any appointive or civil service employee of the department or of the Health and Welfare Agency who, within two years prior to leaving state employment, was responsible for development, negotiation, contract management, or supervision of a prepaid health plan or prepaid health plan contract.

For purposes of this section, employees of the department who are assigned as contract managers shall not be subject to the provisions of this section unless they are employed by a prepaid health plan or a subcontractor of a prepaid health plan for which, within two years prior to leaving state employment, they were responsible for the development, negotiation, contract management, or direct supervision over the prepaid health plan contract. This section shall not apply to any employee, appointee, or person on contract with the department who is employed, appointed, or contracted with by the department either:

(1) To fulfill the purposes of a federal grant, provided that such person does not supervise, develop, manage, or negotiate a prepaid health plan contract; or

(2) To fulfill on a temporary basis, not to exceed 120 days, a specific function for the department which does not include supervising, developing, managing, or negotiating a prepaid health plan contract.

(c) The requirements of this section shall apply to any contract entered into on or after the operative date of this section and to any state officer or state employee who is employed by such contractor or subcontractor thereof on or after such operative date. This section shall not apply to any state officer or employee who terminated state employment prior to such operative date.

SEC. 68. Section 14480 of the Welfare and Institutions Code is amended to read:

14480 No prepaid health plan or pilot program contract with an existing or proposed contractor shall be approved or renewed if a state officer or state employee provides legal or management services to the contracting organization For the purposes of this section no state officer or state employee shall share in the income or any remuneration derived from the providing of legal or management services to a contracting organization.

SEC. 69. Section 14481 of the Welfare and Institutions Code .s amended to read:

14481. No prepaid health plan or pilot program contract shall be approved or renewed if any state officer or state employee receives anything of value for the purpose of influencing or attempting to influence the negotiations for approval or renewal of the contract.

SEC. 70. Section 14482 is added to the Welfare and Institutions Code, to read:

14482. No prepaid health plan shall contract with any subcontractor other than the plan's subsidiary corporation, its parent corporation, or another subsidiary of its parent corporation, or an affiliate of the prepaid health plan whose financial statements are consolidated with that of the prepaid health plan at the time of the annual audit by the independent auditors of the plan and when the quarterly and annual financial statements are filed with the Commissioner of Corporations, if any of the following persons

connected with the plan have a substantial financial interest, as defined by Section 14478, in such subcontractor:

(a) Any person also having a substantial financial interest in the plan.

(b) Any director, officer, partner, trustee, or employee of the plan.

(c) Any member of the immediate family of any person designated in (a) or (b).

SEC. 71. Article 7 (commencing with Section 14490) is added to Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 7. Pilot Programs

14490. In providing benefits under this chapter and Chapter 7 (commencing with Section 14000) of this part, the director shall aggressively seek the development of alternative forms of financing and delivering health care services. In carrying out the intent of this article, the director shall contract with institutional providers, counties, or other organizations to establish pilot programs which demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Contracts entered pursuant to this article shall be awarded on a nonbid basis except where necessary to carry out the purposes of the pilot program. Each pilot program shall be for a specified duration not to exceed four years and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

14491. The director shall pursue the feasibility of establishing the following as pilot programs:

(a) A capitated, risk-assuming contract with one or more regional fiscal intermediaries.

(b) A capitated, risk-assuming contract with acute care hospitals within a county or region.

(c) A capitated, risk-assuming contract with one or more organizations which provide payment to a specified class or classes of providers.

For purposes of this section, "risk-assuming" means the pilot program contractor agrees to assume the risk of utilization of services or costs of services, or both.

14492. In addition to other pilot programs established pursuant to this article, the department also shall establish publicly operated health service delivery systems as pilot programs, to determine whether high quality, comprehensive Medi-Cal benefits can be provided at a reasonable cost on a prepayment basis in a public service system. To the extent possible, the department shall establish programs in both rural and urban areas. Each publicly operated pilot program shall comply with the following:

(a) The program shall be publicly operated either by the department directly or through contract with other public entities.

(b) The program may be regional in nature, extending beyond the boundaries of any one county.

(c) The program shall enroll Medi-Cal recipients and be funded by the department on a prepayment capitation basis determined in accordance with the method for establishing capitation rates paid by the department to prepaid health plans under this chapter for the same or similar care.

(d) The program shall provide the full range of Medi-Cal services required of prepaid health plans and shall meet all statutory requirements and all regulatory and contractual requirements established by the department for the program.

(e) The program shall emphasize the innovative use of health personnel including midlevel medical, nursing and dental professionals in ambulatory settings.

(f) Medi-Cal recipients enrolling in a pilot program pursuant to this section shall be offered a choice of qualified primary care physicians employed by the program to be the recipients' designated primary care physicians.

14493 The director shall also consider programs which demonstrate an innovative and economical use of health personnel and are approved pursuant to Article 18 (commencing with Section 429.70), Chapter 2, Part 1, Division 1 of the Health and Safety Code.

14494 The director may enter into other contracts under this article which do one or more of the following:

(a) Demonstrate an innovative and economical use of health personnel.

(b) Emphasize preventive care.

(c) Stress new methods for controlling utilization of services.

(d) Stress new methods of reviewing provider competency or quality of care.

(e) Stress a more economical organization of health care resources and delivery systems.

(f) Provide an incentive to beneficiaries to seek the most economical level of care.

(g) Demonstrate innovative methods for health care financing, such as prospective budgeting in regard to enrolled population or volume of services.

(h) Test or demonstrate the feasibility of allowing California citizens to purchase Medi-Cal coverage at a premium rate determined by the department on an actuarial basis.

14495. In establishing pilot programs, the director may do the following:

(a) Provide benefits based on class of recipient, class of benefit, geographical area, or any other reasonable classification.

(b) Modify, to the extent permitted by federal law, the scope and duration of benefits provided by Section 14132. The extent of coverage may be limited to a fixed number of days or to amount or duration of services.

(c) Modify, to the extent permitted by federal law, Medi-Cal eligibility determination processes or criteria

(d) Allow for the provision of Medi-Cal benefits on a prepaid basis in a given geographical area exclusively by the pilot program.

(e) Assign persons eligible for Medi-Cal benefits to a pilot program or a prepaid health plan on a pilot basis, provided such persons shall be entitled to disenroll for any cause for a period of 30 days following the effective date of enrollment and to receive a Medi-Cal card pursuant to Section 14017.

14496. Payment may be made to a pilot program on a capitated or prepayment basis, on a fee-for-service basis, or on some combination of both systems.

14497. The director shall call a public hearing pursuant to Section 14300 prior to entering into or renewing a pilot program. The director shall make available to the public a statement of objectives, program proposal, pilot program contract, and other details regarding the pilot program not less than five days prior to the public hearing.

14498. The director shall submit to the Legislature a written report detailing the objectives of all pilot programs, the department's analysis of their effectiveness, efficiency, and quality, and other information regarding such pilot programs not later than January 30 of each year. At the conclusion of a pilot program the director shall report to the Legislature concerning the desirability and feasibility of implementing the pilot program on a statewide basis.

SEC. 71.5. Section 14490 is added to the Welfare and Institutions Code, to read:

14490. In providing benefits under this chapter and Chapter 7 (commencing with Section 14000) of this part, the director shall aggressively seek the development of alternative forms of financing and delivering health care services. In carrying out the intent of this article, the director shall contract with institutional providers, counties, or other organizations to establish pilot programs which demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each pilot program shall be for a specified duration not to exceed four years and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

Where the director finds that he is not able to evaluate a pilot program before the program is concluded, or where the director recommends implementation of a pilot program on a permanent basis but finds that he is not able to implement on a permanent basis such program immediately upon conclusion of the program's term, he may extend the duration of the pilot program until such evaluation or permanent implementation can be accomplished. Any such extension shall be for a term not in excess of six months, but may be renewed for additional six-month terms.

SEC. 71.6. Section 71.5 of this act shall become operative only if Assembly Bill No. 1042 is enacted and in such event Section 14490 of the Welfare and Institutions Code added by Section 71 of this bill

shall not become operative.

SEC. 71.7. Section 1 of this act shall become operative on the 120th day following the effective date of this act. Sections 45 and subdivision (*l*) of Section 14450 of the Welfare and Institutions Code, as amended by Section 41 of this act, shall become operative with respect to a prepaid health plan on the date of contract renewal or July 1, 1978, whichever date is earlier.

Section 70 of this act shall become operative with respect to a prepaid health plan on the date of contract renewal or July 1, 1978, whichever date is earlier, except if in complying with the requirements of Section 14482, a prepaid health plan has made a good faith effort, and is unable, to receive the approval of federal and other state agencies necessary to comply with any other provision of law, the director may extend the date for compliance.

SEC. 71.8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 72. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to correct abuses in the administration of prepaid health plans and to conform state law with federal requirements for purposes of qualifying for federal funds, it is necessary that this act go into immediate effect.

CHAPTER 1037

An act to amend Section 2 of Chapter 1112 of the Statutes of 1975 and to amend Section 309 of, and to add Chapter 1.5 (commencing with Section 150) to Part 1 of Division 1 of, the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1 Chapter 1.5 (commencing with Section 150) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.5. HEREDITARY DISORDERS ACT

150. The Legislature hereby finds and declares that:

(a) Each person in the State of California is entitled to health care commensurate with his or her health care needs, and to protection from inadequate health services not in the person's best interests.

(b) Hereditary disorders, such as sickle cell anemia, cystic fibrosis, and hemophilia, are often costly, tragic, and sometimes deadly burdens to the health and well-being of the citizens of this state.

(c) Detection through screening of hereditary disorders can lead to the alleviation of the disability of some hereditary disorders and contribute to the further understanding and accumulation of medical knowledge about hereditary disorders which may lead to their eventual alleviation or cure.

(d) There are different severities of hereditary disorders, that some hereditary disorders have little effect on the normal functioning of individuals, and that some hereditary disorders may be wholly or partially alleviated through medical intervention and treatment.

(e) All or most persons are carriers of some deleterious recessive genes which may be transmitted through the hereditary process, and that the health of carriers of hereditary disorders is substantially unaffected by that fact.

(f) Carriers of most deleterious genes should not be stigmatized and should not be discriminated against by any person within the State of California.

(g) Specific legislation designed to alleviate the problems associated with specific hereditary disorders may tend to be inflexible in the face of rapidly expanding medical knowledge, underscoring the need for flexible approaches to coping with genetic problems.

(h) State policy regarding hereditary disorders should be made with full public knowledge, in light of expert opinion and should be constantly reviewed to consider changing medical knowledge and ensure full public protection.

(i) The extremely personal decision to bear children should remain the free choice and responsibility of the individual, and should not be restricted by the state.

(j) Participation of persons in hereditary disorders programs in the State of California should be wholly voluntary, except for initial screening for phenylketonuria (PKU) and other genetic disorders treatable through the California newborn screening program. All information obtained from persons involved in hereditary disorders programs in the state should be held strictly confidential.

(k) In order to minimize the possibility for the reoccurrence of abuse of genetic intervention in hereditary disorders programs, all programs offering screening programs for heredity disorders shall comply with the principles established in this chapter. The Legislature finds it necessary to establish a uniform statewide policy

for the screening for heredity disorder in the State of California.

151. The director shall establish such rules, regulations, and standards for hereditary disorders programs as the director deems necessary to promote and protect the public health and safety, in accordance with the principles established herein. Such principles shall include, but not be limited to, the following:

(a) The public, especially communities and groups particularly affected by programs on hereditary disorders, should be consulted before any rules, regulations, and standards are adopted by the State Department of Health.

(b) The incidence, severity and treatment costs of each hereditary disorder and its perceived burden by the affected community should be considered; and that where appropriate, state and national experts in the medical, psychological, ethical, social, and economic effects or programs for the detection and management of hereditary disorders be consulted by the State Department of Health.

(c) Information on the operation of all programs on hereditary disorders within the state, except for confidential information obtained from participants in such programs, be open and freely available to the public.

(d) Clinical testing procedures established for use in programs, facilities, and projects be accurate, provide maximum information, and that the testing procedures selected produce results that are subject to minimum misinterpretation.

(e) No test or tests shall be performed on any minor over the objection of the minor's parents or guardian, nor may any tests be performed unless such parent or guardian is fully informed of the purposes of testing for hereditary disorders, and is given reasonable opportunity to object to such testing.

(f) No testing, except initial screening for PKU and other diseases which may be added to the newborn screening program, shall require mandatory participation, and no testing programs shall require restriction of childbearing, and participation in a testing program shall not be a prerequisite to eligibility for, or receipt of, any other service or assistance from, or to participate in, any other program, except where necessary to determine eligibility for further programs of diagnoses of or therapy for hereditary conditions.

(g) Counseling services for hereditary disorders be available through the program or a referral source for all persons determined to be or who believe themselves to be at risk for a hereditary disorder as a result of screening programs, that such counseling is nondirective, emphasizes informing the client, and not require restriction of childbearing.

(h) All participants in programs on hereditary disorders be protected from undue physical and mental harm, and except for initial screening for PKU and other diseases which may be added to newborn screening programs, be informed of the nature of risks involved in participation in such a program or project, and those determined to be affected with genetic disease be informed of the

nature, and where possible, the cost of available therapies or maintenance programs, and be informed of the possible benefits and risks associated with such therapies and programs.

(i) All testing results and personal information generated from hereditary disorders programs be made available to an individual over 18 years of age, or to the individual's parent or guardian. If the individual is a minor or incompetent, all testing results which have positively determined the individual to either have, or be a carrier of, a heredity disorder shall be given through a physician or other source of health care.

(j) All testing results and personal information from hereditary disorders programs obtained from any individual, or from specimens from any individual, be held confidential and be considered a confidential medical record except for such information as the individual, parent, or guardian consents to be released; provided that the individual is first fully informed of the scope of the information requested to be released, of all of the risks, benefits, and purposes for such release, and of the identity of those to whom the information will be released or made available, except for statistical data compiled without reference to the identity of any individual, and except for research purposes, provided that pursuant to 45 Code of Federal Regulations Section 46.101 et seq. entitled "Protection of Human Subjects," the research has first been reviewed and approved by an institutional review board which certifies such approval to the custodian of the information and further certifies that in its judgment the information is of such potentially substantial public health value that modification of the requirement for legally effective prior informed consent of the individual is ethically justifiable.

(k) An individual whose confidentiality has been breached as a result of any violation of the provisions of this chapter may recover compensatory damages, and in addition, may recover civil damages not to exceed ten thousand dollars ($10,000), reasonable attorney's fees, and the costs of litigation.

152. A violation of any of the provisions of this chapter or any of the rules and regulations adopted pursuant to this chapter shall be punishable as a misdemeanor.

153. The director shall submit a report to the Governor and the Legislature on an annual basis beginning January 1, 1979. The report shall summarize the activities conducted pursuant to this chapter and contain any recommendations which the director deems necessary regarding problems of hereditary disorders.

154. For the purposes of this chapter, hereditary disorders programs shall include, but not be limited to, all antenatal, neonatal, childhood, and adult screening programs, and all adjunct genetic counseling services.

155. The following programs shall comply with the regulations established pursuant to this chapter:

(a) Crippled children services programs under Article 2 (commencing with Section 249) of Chapter 2

(b) Prenatal testing programs under Article 2.8 (commencing with Section 290) of Chapter 2.

(c) Medical testing programs for newborns under Article 3 (commencing with Section 300) of Chapter 2.

(d) Programs of the genetic disease unit under Section 309.

(e) Child health disability prevention programs under Article 3.4 (commencing with Section 320) of Chapter 2.

(f) Genetically handicapped person's programs under Article 3.6 (commencing with Section 340) of Chapter 2.

(g) Medi-Cal Benefits Program under Article 4.2 (commencing with Section 14131) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 2. Section 309 of the Health and Safety Code is amended to read:

309. It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable heritable disorders leading to mental retardation or physical defects.

The State Department of Health shall establish a genetic disease unit, which shall coordinate all programs of the department in the area of genetic disease. The unit shall promote a statewide program of testing information and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program. Such tests shall be in accordance with accepted medical practices and shall be administered to each child born in California at such time as the department has established appropriate regulations and testing methods. The department may provide laboratory testing facilities or contract with any laboratory which it deems qualified to conduct tests required under this section.

The department shall charge a fee for any tests performed pursuant to this section. The amount of such fee shall be established and periodically adjusted by the Director of Health in order to meet the costs of this section.

The department shall inform all hospitals or physicians, or both, of required regulations and tests and may alter or withdraw any such requirements whenever sound medical practice so indicates.

The provisions of this section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his religious beliefs or practices.

The genetic disease unit is authorized to make grants or contracts for demonstration projects to determine the desirability and feasibility of additional tests or new genetic services or to initiate the development of genetic services in areas of need or to purchase or provide such services from such sums as are appropriated for this purpose.

The genetic disease unit's first task shall be to evaluate and prepare recommendations on the implementation of tests for the detection of the following diseases: galactosemia, histidinemia, galactokinase deficiency, homocystinuria, maple syrup urine disease, and tyrosinosis.

SEC. 3. Section 2 of Chapter 1112 of the Statutes of 1975 is amended to read:

Sec. 2. The Genetic Disease Testing Fund is hereby created as a special fund in the State Treasury. All moneys collected by the State Department of Health under Section 309 of the Health and Safety Code shall be deposited in the Genetic Disease Testing Fund which is continuously appropriated to the department to carry out the purposes of Section 309 of the Health and Safety Code.

It is the intent of the Legislature that the program carried out pursuant to Section 309 of the Health and Safety Code be fully supported from fees collected for such testing.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC. 5. The sum of fifty thousand four hundred ninety-two dollars ($50,492) is hereby appropriated from the General Fund to the State Department of Health for expenditure by the state department during the 1977–78 fiscal year for establishing and implementing regulations under Chapter 1.5 (commencing with Section 150) of Part 1 of Division 1 of the Health and Safety Code.

SEC. 6. Upon the request of the Director of Health, the Director of Finance may provide a loan from the General Fund to the Genetic Disease Testing Fund. The amount of any such loan shall be approved by the Director of Finance and be repaid under such terms and conditions as prescribed by the Director of Finance, but shall, in any event, be entirely repaid no later than June 30, 1982.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to ensure that genetic disease testing programs will continue to operate effectively to protect the public health and safety, it is essential that this act go into effect immediately.

CHAPTER 1038

An act to amend Sections 9889.18 and 9889.19 of the Business and Professions Code, and to amend Sections 4000.1 and 24007 of the Vehicle Code, relating to vehicles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 9889.18 of the Business and Professions Code is amended to read:

9889.18. (a) Whenever a licensed installer in a licensed station, in conformity with the instructions of the director, inspects or repairs a motor vehicle for pollution control, or installs a motor vehicle pollution control device, and determines that the vehicle conforms with the requirements of Section 27157 or 27157.5 of the Vehicle Code or Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and the rules and regulations of the State Air Resources Board, a certificate of compliance shall be issued to the owner or driver of the vehicle. The certificate of compliance shall contain provisions for the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official designation of the station. It is unlawful for any person, other than a licensed installer in a licensed station, to sign or issue a certificate of compliance required by this article.

(b) A licensed installer shall not issue a certificate of compliance for any motor vehicle or motor vehicle with a motor vehicle engine which is not certified by the state board, and which is the subject of a transaction prohibited by Section 43152 or 43153 of the Health and Safety Code.

(c) With respect to a motor vehicle or motor vehicle with a new motor vehicle engine not certified by the state board which is in violation of Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, but which is not the subject of a transaction prohibited by Section 43152 or 43153 of that code, a licensed installer shall issue a certificate of noncompliance. The certificate of noncompliance shall contain the same information as a certificate of compliance but also shall indicate the basis for nonconformity and be of a distinctive form or style. The licensed installer shall send copies of any such certificate of noncompliance issued to the State Air Resources Board.

SEC. 2. Section 9889.19 of the Business and Professions Code is amended to read:

9889.19. The director may charge a fee for lamp and brake adjustment certificates, certificates of compliance, and certificates of noncompliance furnished to licensed stations. The fee charged shall be established by regulation and shall not produce a total estimated revenue which, together with license fees charged pursuant to Sections 9886.3, 9887.2 and 9887.3, is in excess of the estimated total cost to the bureau of the administration of this chapter.

SEC. 3. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) The department shall require, pursuant to this section or regulations of the State Air Resources Board adopted pursuant to Section 43655 of the Health and Safety Code, upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of

Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or a certificate of noncompliance, as appropriate.

With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, and having a gross vehicle weight of 6,000 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code shall control.

The provisions of this section shall not apply to a transfer of ownership and registration when the transferor is either the parent, grandparent, child, or spouse of the transferee, when a vehicle registered to a sole proprietorship is transferred to such proprietor as owner, or when the transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(b) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from the provisions of subdivision (a) as it deems necessary, and shall notify the department of such action.

SEC. 4. Section 4000.1 of the Vehicle Code, as amended by Assembly Bill No. 106 of the 1977–78 Regular Session, is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b) or (c) of this section or in subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require, pursuant to this section or regulations of the State Air Resources Board adopted pursuant to Section 43655 of the Health and Safety Code, upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or a certificate of noncompliance, as appropriate.

With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, and having a gross vehicle weight of 6,000 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

(b) Subdivision (a) shall not apply to a transfer of ownership and registration when:

(1) The transferor is either the parent, grandparent, child, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to such proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(c) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from the provisions of subdivision (a) as it deems necessary, and shall notify the department of such action.

SEC. 5. Section 24007 of the Vehicle Code is amended to read:

24007. (a) No dealer or person holding a retail seller's permit shall sell a new or used vehicle which is not in compliance with the provisions of this code and departmental regulations adopted pursuant to this code unless the vehicle is (1) sold to another dealer, (2) sold for the purpose of being wrecked or dismantled, or (3) sold exclusively for off-highway use.

(b) No person shall sell, or offer or deliver for sale, to the ultimate purchaser a new or used motor vehicle, as those terms are defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, subject to Part 5 (commencing with Section 43000) of that Division 26 which is not in compliance with the provisions of that Part 5 and the rules and regulations of the State Air Resources Board, unless the vehicle is either (1) sold to a dealer, or (2) sold for the purpose of being wrecked or dismantled. With each application for initial registration of a new motor vehicle or transfer of registration of a motor vehicle subject to that Part 5, a dealer shall transmit to the Department of Motor Vehicles a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a certified device or devices which are in proper operating condition and which are in compliance with the provisions of that Part 5 and the rules and regulations of the board.

With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, having a gross vehicle weight of 6,000 pounds or less, a dealer may transmit, in lieu of such certificate of compliance, a statement, in a form and containing such information as is deemed necessary and appropriate by the Director of Motor Vehicles and the Executive Officer of the State Air Resources Board, to attest to the vehicles compliance with the provisions of that Chapter 2. The statement shall be certified under penalty of perjury, and shall be signed by the dealer or the dealer's authorized representative.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 106 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 4000.1 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 106, that Section 4000.1 of the Vehicle Code, as amended by Assembly Bill No. 106, be further amended on the effective date of this act in the form set forth in Section 4 of this act to incorporate the changes in Section 4000.1 proposed by this bill. Therefore, if this bill and Assembly Bill No. 106 are both chaptered and become effective on or before January 1, 1978, and Assembly Bill No. 106 is chaptered before this bill and amends Section 4000.1, Section 4 of this act shall become operative on the effective date of this act and Section 3 of this act shall not become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Recently enacted amendments to provisions of the Vehicle Code have eliminated the authority previously given vehicle dealers to use a statement of facts regarding the exhaust emission control device or system of a vehicle, in lieu of a certificate of compliance issued by a motor vehicle pollution control device installation and inspection station. This will result in unnecessary hardship to vehicle dealers. In order to correct this situation at the earliest possible time, and to make other needed, related changes, it is necessary that this act take effect immediately.

CHAPTER 1039

An act to amend Sections 66714.3, 66796, and 66796.34 of the Government Code, to amend Sections 25100, 25101, 25113, 25114, 25115, 25116, 25117, 25118, 25119, 25121, 25150, 25152, 25153, 25154, 25155, 25160, and 25170 of, and to add Sections 25110.5, 25117.5, 25117.6, 25123, 25124, 25141, 25142, 25143, 25144, 25145, 25163, 25165, 25166, 25167, 25175, 25176, 25186, 25187, 25188, 25189, 25190, 25191, and 25192 to, and to add Article 9 (commencing with Section 25200)

and Article 10 (commencing with Section 25210) to Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste control, and making an appropriation therefor.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 66714.3 of the Government Code is amended to read:

66714.3. "Enforcement agency" means the local agency, the board, or the department designated pursuant to Section 66796 for the purpose of carrying out the provisions of Chapter 3 (commencing with Section 66796) of Title 7.3 of the Government Code.

SEC. 1.1. Section 66796 of the Government Code is amended to read:

66796. On or before July 1, 1977, there shall be designated within each county an enforcement agency to carry out the provisions of this chapter. If an agency is not designated by July 1, 1977, the board, in addition to its other powers, shall be the enforcement agency within the county failing to make the designation except for any solid waste facility to which the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code apply. For any solid waste facility to which the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code apply, the local governing body shall designate either the department or the county health entity, in accordance with the department's decision and the board's concurrence, and not subject to the other provisions of this section. Decisions of the department related specifically to the control of hazardous waste at any solid waste facility to which the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code apply shall not be subject to the review of the board.

(a) The designation of the enforcement agency shall be made by any of the following procedures:

(1) The board of supervisors of the county may designate the enforcement agency subject to the approval by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county; or

(2) The county and the cities within the county may enter into a joint exercise of powers agreement pursuant to Section 6500 of the Government Code for the purpose of establishing an enforcement agency.

(3) The county and each city within the county may designate an enforcement agency to carry out the provisions of this chapter. In the case of a city and county, the city and county shall designate the enforcement agency.

(b) If no enforcement agency is designated and the board becomes the enforcement agency, nothing in this chapter shall prevent a designation of an enforcement agency under subdivision (a) of this section at a later date.

(c) A designation made pursuant to this section may be withdrawn in the same manner in which it was made.

(d) No local governmental department or agency which is the operating unit for a solid waste handling or disposal operation shall be the enforcement agency for the type of solid waste handling or disposal operation it conducts. A conditional waiver to this requirement may be granted by the board upon submission of details by the local entity requesting such waiver. The board may review annually effects or impacts of the waiver.

SEC. 1.2. Section 66796.34 of the Government Code is amended to read:

66796.34. (a) Upon compliance with the provisions of Section 66796.32 and after any necessary hearing, the enforcement agency may issue, modify, or revise a solid waste facilities permit if the board has concurred in the permit and if the enforcement agency, in the permit, makes both of the following findings based on substantial evidence:

(1) The proposed solid waste facilities permit is consistent with the county solid waste management plan prepared under Section 66780.

(2) The proposed solid waste facilities permit is consistent with the standards adopted by the board.

The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(b) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the disposal site owner and the person who is or proposes to become an operator of a transfer/processing station or a disposal site, or both, a copy of the solid waste facilities permit.

(c) For solid waste facilities which accept wastes to which the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code apply, the solid waste facilities permit shall include all conditions required by the department pursuant to that division. Permit conditions governing hazardous waste may be modified or revised by the department without the concurrence of the board.

SEC. 1.3. Section 25100 of the Health and Safety Code is amended to read:

25100. The Legislature finds that increasing quantities of hazardous wastes are being generated in the state and that without adequate and reasonable safeguards for handling, storage, use, processing, and disposal, such wastes can create conditions which threaten the public health and safety and create hazards to domestic livestock or to wildlife.

SEC. 2. Section 25101 of the Health and Safety Code is amended to read:

25101. The Legislature therefore declares that in order to prevent such hazardous conditions it is in the public interest to establish regulations and to maintain a program to provide for the safe handling, storage, use, processing, and disposal of, and recovery of resources from, hazardous wastes.

SEC. 2.5. Section 25110.5 is added to the Health and Safety Code, to read:

25110.5. "Business" means the conduct of activity and is not limited to a commercial or proprietary activity.

SEC. 3. Section 25113 of the Health and Safety Code is amended to read:

25113. "Disposal" means to abandon, deposit, inter or otherwise discard waste.

SEC. 4. Section 25114 of the Health and Safety Code is amended to read:

25114. "Disposal site" means the location where any final deposition of hazardous waste occurs.

SEC. 5. Section 25115 of the Health and Safety Code is amended to read:

25115. "Extremely hazardous waste" means any hazardous waste or mixture of hazardous wastes which, if human exposure should occur, may likely result in death, disabling personal injury or serious illness caused by the hazardous waste or mixture of hazardous wastes because of its quantity, concentration, or chemical characteristics.

SEC. 6. Section 25116 of the Health and Safety Code is amended to read:

25116. "Handling" means the transporting or transferring from one place to another, or pumping, processing, storing, or packaging of hazardous waste, but does not include the handling of any substance before it becomes a waste, and does not include the storage of hazardous waste on the contiguous property of the producer of the waste.

SEC. 7. Section 25117 of the Health and Safety Code is amended to read:

25117. "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may either:

(a) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(b) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

SEC. 8. Section 25117.5 is added to the Health and Safety Code, to read:

25117.5. "Infectious," except as otherwise provided in Section 25117.6, includes:

(a) Pathologic specimens, tissues, specimens of blood elements, excreta or secretions and disposable articles attendant thereto from humans or animals at a hospital, medical clinic, research center, veterinary institution, or pathology laboratory.

(b) Surgical operating room pathologic specimens and disposable articles attendant thereto which may harbor or transmit pathogenic organisms.

(c) Pathologic specimens and disposable articles attendant thereto from outpatient areas and emergency rooms.

(d) Discarded equipment, instruments, utensils and other articles which may harbor or transmit pathogenic organisms from the rooms of patients with suspected or diagnosed communicable disease.

SEC. 8.1. Section 25117.6 is added to the Health and Safety Code, to read:

25117.6. Wastewater and wastewater sludges which have been properly treated to comply with the regulations of the State Department of Health and the regional water quality control boards shall not be considered infectious for the purposes of Section 25117.5.

SEC. 9. Section 25118 of the Health and Safety Code is amended to read:

25118. "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, and association. "Person" also includes any city, county, district, the state or any department or agency thereof.

SEC. 10. Section 25119 of the Health and Safety Code is amended to read:

25119. "Processing" means to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove its harmful properties or characteristics for disposal in accordance with regulations established by the department.

SEC. 11. Section 25121 of the Health and Safety Code is amended to read:

25121. "Recycle" means to redirect or utilize a waste or a substance from a waste in a manner that, in the judgment of the department, will not result in a substantial hazard to the health or safety of persons, domestic livestock, or wildlife.

SEC. 12. Section 25123 is added to the Health and Safety Code, to read:

25123. "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal or use of such hazardous waste.

SEC. 12.1. Section 25124 is added to the Health and Safety Code, to read:

25124. "Use" means utilization of a hazardous waste in a manner that, in the judgment of the department, will not result in a substantial hazard to the health or safety of persons, domestic livestock, or wildlife.

SEC. 13. Section 25141 is added to the Health and Safety Code, to read:

25141. The department shall develop and adopt by regulation criteria and guidelines for the identification of hazardous wastes and extremely hazardous wastes.

SEC. 14. Section 25142 is added to the Health and Safety Code, to read:

25142. Any waste which conforms to a criterion adopted pursuant to Section 25141 of this chapter shall be handled, stored, used, processed, and disposed of in accordance with permits, orders, and requirements issued or promulgated by the department pursuant to this chapter, until such waste is cited in a list adopted by the department pursuant to Section 25140.

SEC. 14.1. Section 25143 is added to the Health and Safety Code, to read:

25143. Pursuant to regulations adopted by the department, the provisions of this chapter may be waived by the department for any waste which the department determines is insignificant or unimportant as a potential hazard to human health, domestic livestock, or wildlife or the handling, processing, or disposal of which is adequately regulated by another governmental agency.

SEC. 14.2. Section 25144 is added to the Health and Safety Code, to read:

25144. A biological process on the property of the producer treating oil, its products, and water, and producing an effluent which is continuously discharged to navigable waters in compliance with a permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) shall be exempt from the provisions of this chapter. However, residues produced in the treatment process and subsequently removed that conform to any criterion adopted pursuant to Section 25141 of this code shall not be exempt.

SEC. 14.3. Section 25145 is added to the Health and Safety Code, to read:

25145. This chapter shall not be construed to limit or abridge the powers or duties granted to the State Water Resources Control Board and each regional water quality control board by Division 7 (commencing with Section 13000) and Division 7.5 (commencing with Section 14000) of the Water Code.

SEC. 15. Section 25150 of the Health and Safety Code is amended to read:

25150. The department shall adopt, and may revise when appropriate, minimum standards and regulations for the handling, processing, use, storage, and disposal of, and the recovery of resources from, hazardous and extremely hazardous wastes to protect against hazards to the public health, to domestic livestock, or to wildlife.

The department shall establish standards and requirements for the use and operation of facilities for handling, processing, storing, and disposal of hazardous waste, and for the recovery of resources from hazardous waste.

Before adoption of such standards and regulations the department shall consult with all agencies of interested local governments and secure technical assistance from the Department of Food and Agriculture, the Department of the California Highway Patrol, the Department of Fish and Game, the Department of Industrial Relations, Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, and the State Solid Waste Management Board.

SEC. 16. Section 25152 of the Health and Safety Code is amended to read:

25152. Before adopting or revising minimum standards and regulations for the handling, processing, storing, uses, and disposal of, and the recovery of resources from, hazardous and extremely hazardous wastes, the department shall hold at least one public hearing in Sacramento, or in a city within the area of the state to be affected by the proposed regulations. The department shall adopt the proposed regulations after making changes or additions that are appropriate in view of the evidence and testimony presented at the public hearing or hearings.

SEC. 17. Section 25153 of the Health and Safety Code is amended to read:

25153. Any person who is producing a material which he may reasonably consider to be an extremely hazardous waste, and which he does not intend to recycle for reuse and intends to dispose of, shall notify the department of his intent to dispose of such material.

SEC. 18. Section 25154 of the Health and Safety Code is amended to read:

25154. It shall be unlawful for any person to handle, store, use, process, or dispose of any hazardous or extremely hazardous waste except as provided for in regulations adopted by the department pursuant to this chapter.

SEC. 19. Section 25155 of the Health and Safety Code is amended to read:

25155. No extremely hazardous waste may be disposed of without prior processing to remove its harmful properties or as specified by the regulations of the department for the handling and disposal of the particular extremely hazardous waste.

SEC. 20. Section 25160 of the Health and Safety Code is amended to read:

25160. The person producing a hazardous waste shall provide the driver of any truck, a crew member of any train, or the captain of any vessel carrying such hazardous wastes with a list setting forth the hazardous wastes carried, the amount of such waste, the general chemical and mineral composition of such waste listed by probable maximum and minimum percentages, and the origin and destination of any such waste carried. Such list, when appropriate, may include information on antidotes, first aid, or safety measures to be taken in case of accidental contact with the particular hazardous waste being

carried. The person carrying, or handling the hazardous waste shall have the list in his possession while carrying or handling the hazardous waste and shall release the list to a person responsible for disposal of the hazardous waste at the time of delivery. Such list shall be shown upon demand to any department official, officer of the California Highway Patrol, any local health officer, or any local public officer as designated by the director.

SEC. 21. Section 25163 is added to the Health and Safety Code, to read:

25163. (a) Except as otherwise provided in subdivision (b), after January 1, 1979, it shall be unlawful for any person to carry on, or engage in, the business of hauling hazardous waste, or the hauling of hazardous waste as a part of, or incidental to, any business, unless such person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a hauler who does not hold a valid registration issued by the department.

(b) Persons hauling only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or his duly authorized representative pursuant to Chapter 6 (commencing with Section 25000) shall be exempt from the requirements of subdivision (a).

SEC. 22. Section 25165 is added to the Health and Safety Code, to read:

25165. An application for registration under this section shall be filed with the department. The application shall be on a form provided by the department and shall state the name in full, if a partnership, the names of each of the partners, the relation of the applicant to the firm or partnership, the place of business and place of residence of the applicant for registration and of each of the partners in the business, if a partnership, and shall designate, as specifically as practical, the areas and locations where it is proposed to dispose of hazardous waste. The application shall be signed by the authorized officer of a corporation, if a corporation, or by the managing partner, if a partnership.

SEC. 23. Section 25166 is added to the Health and Safety Code, to read:

25166. A registration fee of fifty dollars ($50) shall be paid to the department by each person who carries on, or engages in, the business of hauling hazardous waste or who handles hazardous waste as a part of, or incidental to, any business, for a calendar year or any portion thereof. A person who transports hazardous waste as a substantial part of any business or who transports hazardous wastes in vehicles designed for such transport shall also pay to the department fifteen dollars ($15) for the first vehicle used for the transportation of hazardous waste, ten dollars ($10) per vehicle for the second through sixth vehicle and five dollars ($5) per vehicle for

the seventh and any other vehicle, for a calendar year, or a prorated amount thereof for the unexpired portion of a calendar year. For the purposes of this section, "substantial part of any business" shall mean 8 percent or more of the total cargo transported during a calendar year. The fees imposed by this section are for the privilege of engaging in a business.

SEC. 24. Section 25167 is added to the Health and Safety Code, to read:

25167. The fees prescribed in Section 25166 shall be payable each year not later than the first day of February or within 30 days after commencing the use of any vehicle to haul hazardous waste, whichever occurs later, for administering the provisions of this chapter.

SEC. 26. Section 25170 of the Health and Safety Code is amended to read:

25170. The department in performing its duties under this chapter shall:

(a) Coordinate research and development regarding methods of hazardous waste handling, storage, use, processing, and disposal and may conduct appropriate studies relating to hazardous wastes.

(b) Maintain a technical reference center on hazardous waste disposal, recycling practices, and related information for public and private use.

(c) Render technical assistance to state and local agencies in the planning and operation of hazardous waste programs.

(d) Provide for appropriate surveillance of hazardous waste processing, use, handling, storage, and disposal practices in the state.

(e) Coordinate research and study in the technical and managerial aspects of management and use of hazardous wastes, and recycling and recovery of resources from hazardous wastes.

(f) Determine existing and expected rates of production of hazardous waste.

(g) Investigate market potential and feasibility of use of hazardous wastes and recovery of resources from hazardous wastes.

(h) Promote recycling and recovery of resources from hazardous wastes.

(i) Conduct studies for the purpose of improving departmental operations.

(j) Encourage the reduction or exchange, or both, of hazardous waste.

(k) Establish and maintain an information clearinghouse, which shall consist of a record of wastes which may be recyclable. Every producer of hazardous waste shall supply the department with information for the clearinghouse. Each producer shall not be required to supply any more information than is required by the manifests provided for in Section 25160. The department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

SEC. 27. Section 25175 is added to the Health and Safety Code, to read:

25175. The department shall prepare and adopt and may revise when appropriate, a list of hazardous wastes which the department finds are economically and technologically feasible to recycle. Each substance shall be categorized according to the degree of difficulty and the kind of difficulty encountered in recycling that substance. Whenever any waste on the list is disposed of by a person, the department may request, and the producer or disposer of that waste shall supply the department with, a formal, complete, and detailed statement justifying why the waste was not recycled. If the request is made of any entity listed in Section 25118 other than an individual, the statement shall be issued by the responsible management of that entity. The department shall keep confidential any trade secrets contained in any such statement.

SEC. 28. Section 25176 is added to the Health and Safety Code, to read:

25176. The listing of wastes feasible to recycle developed pursuant to Section 25175 shall be presented annually, commencing January, 1979, to the Legislature with specific recommendations to promote recycling.

SEC. 29. Section 25186 is added to the Health and Safety Code, to read:

25186. The director, after a public hearing, may suspend or revoke any permit issued pursuant to the provisions of this chapter based on any of the following:

(a) A violation of any applicable requirement promulgated by the department pursuant to this chapter.

(b) The aiding or abetting the violation of any requirement promulgated by the department pursuant to this chapter.

(c) An act or omission associated with the transportation of hazardous wastes that could cause or allow hazard to public health or safety, domestic livestock, or wildlife.

(d) The misrepresentation or omission of a significant fact either in the application for the registration or in information subsequently reported to the department.

(e) Noncompliance with an order issued by the director.

SEC. 30. Section 25187 is added to the Health and Safety Code, to read:

25187. Whenever the director determines, after public hearing, that any person is in violation of any requirement of this chapter, the director may issue an order specifying a schedule for compliance.

SEC. 31. Section 25188 is added to the Health and Safety Code, to read:

25188. Any person subject to a schedule for compliance issued pursuant to Section 25187 who does not comply with that schedule shall be subject to a fine of not more than twenty-five thousand dollars ($25,000) for each day of noncompliance.

SEC. 31.1. Section 25189 is added to the Health and Safety Code, to read:

25189. Any person who intentionally or negligently does any of the following shall be liable for a civil penalty not to exceed five thousand dollars ($5,000):

(a) Disposes of any extremely hazardous waste listed pursuant to this chapter without having obtained a permit therefor from the department.

(b) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter.

(c) Violates any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter.

SEC. 31.2. Section 25190 is added to the Health and Safety Code, to read:

25190. Any person who knowingly disposes of any hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation and may be ordered to disclose the fact of this violation or violations to such persons as the court may direct.

SEC. 31.3. Section 25191 is added to the Health and Safety Code, to read:

25191. Any person who knowingly disposes of any hazardous waste at a point which is not authorized according to the provisions of this chapter shall be subject to a fine of not more than twenty-five thousand dollars ($25,000) for each violation, or to imprisonment not to exceed one year, or both, and may be required to disclose the fact of this violation to such persons as the court may direct.

SEC. 32. Section 25192 is added to the Health and Safety Code, to read:

25192. Fees and penalties collected pursuant to this chapter shall be deposited in the Hazardous Waste Control Account in the General Fund. Fees collected pursuant to Section 25174, shall not exceed the amount necessary to cover all costs incurred in the administration of this chapter. Commencing with fiscal year 1978–79, expenditures from this account shall be included in the budget submitted to the Legislature.

SEC. 33. Article 9 (commencing with Section 25200) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 9. Permitting of Facilities

25200. The department shall issue permits to use and operate facilities which in the judgment of the department meet the standards and requirements adopted pursuant to Section 25150

25201. Three months after the department adopts standards and requirements pursuant to Section 25150, no operator of a treatment facility, waste transfer station, waste storage area, resource recovery

facility, or waste disposal site shall accept or dispose of a hazardous waste unless the operator holds a valid permit from the department to use and operate such facility, station, area, or site.

25202. Compliance with conditions on the permit and with regulations adopted by the department pursuant to this chapter shall be required to sustain the validity of the permit. The department may impose conditions on the permit, including, but not limited to, the types of hazardous wastes which may be accepted or disposed of, special operating conditions, and changes in the operation of the permitee necessary to comply with the requirements promulgated pursuant to this chapter.

25203. Three months after the department adopts standards and requirements pursuant to Section 25150, it shall be unlawful for any person to dispose of a hazardous waste except at a disposal site or facility of an operator who holds a valid permit from the department to use and operate such site or facility.

25204. Any solid waste facilities permit issued pursuant to Article 2 (commencing with Section 66796.30) of Chapter 3 of Title 7.3 of the Government Code by the department or by the county health entity shall, if it contains requirements that the department specifies, satisfy this article's requirements for a permit.

SEC. 34. Article 10 (commencing with Section 25210) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10. Prohibited Chemicals

25210. It shall be unlawful, on or after January 1, 1979, to use a nonbiodegradable toxic chemical in a chemical toilet, recreational vehicle, or waste facility of a vessel as the term vessel is defined in the Harbors and Navigation Code, and it shall be unlawful on or after January 1, 1979, to sell a nonbiodegradable toxic chemical in a container which indicates that the chemical could be used in a chemical toilet, a waste facility of a recreational vehicle, or a waste facility of a vessel as the term vessel is defined in the Harbors and Navigation Code. The department shall develop and adopt regulations to define nonbiodegradable toxic chemicals and limitations on the sale thereof by June 1, 1978.

SEC. 35. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1040

An act to amend Section 50280 of, and to add Section 50290 to, the Government Code, to amend Section 5031 of the Public Resources Code, to add Article 1.9 (commencing with Section 439) to Chapter 3 of Part 2 of Division 1 of, and to repeal Article 7 (commencing with Section 1161) of Chapter 5 of Part 2 of Division 1 of, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. It is the purpose of this act to implement Proposition 7 (Res. Ch. 198, Stats. 1974) on the ballot for the Primary Election held on Tuesday, June 8, 1976, which amended Section 8 of Article XIII of the Constitution of the State of California to authorize the Legislature to define property of historical significance, to provide for the enforceable restriction of such property, and to require the valuation of such property for property tax purposes only on a basis that is consistent with its restrictions and uses.

SEC. 2. Section 50280 of the Government Code is amended to read:

50280. Upon the application of an owner or the agent of an owner of any qualified historical property described in Article 3 (commencing with Section 5031) of Chapter 1 of Division 5 of the Public Resources Code, the legislative body of a city, county, or city and county may, by ordinance, create an historic zone encompassing so much of such property and so much additional property as the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

SEC. 3. Section 50290 is added to the Government Code, to read:

50290. Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission and the State Department of Parks and Recreation for their advice and counsel on matters relevant to historical property contracts.

SEC. 3.5. Section 5031 of the Public Resources Code is amended to read:

5031. "Qualified historical property" means privately owned property which is not exempt from property taxation, is visually accessible to the public, and which is:

(a) All landmark registrations up to and including Register No. 769, which were approved without the benefit of criteria, shall be approved only if the landmark site conforms to the existing criteria as determined by the California Historical Landmarks Advisory Committee or as to approvals on or after January 1, 1975, by the State Historical Resources Commission. Any other registered California historical landmark under Article 2 (commencing with Section 5020)

of this chapter, except points of historical interest, and which satisfies any of the following requirements:

(1) The property is the first, last, only, or most significant historical property of its type in the region;

(2) The property is associated with an individual or group having a profound influence on the history of California; or

(3) The property is a prototype of, or an outstanding example of, a period, style, architectural movement, or construction, or if it is one of the more notable works, or the best surviving work, in a region of a pioneer architect, designer, or master builder; or

(b) A property which is listed on the national register described in Section 470a of Title 16 of the United States Code; or

(c) A property which is listed on a city or county register or inventory of historical or architecturally significant sites, places or landmarks, provided, that such property satisfies any of the requirements set forth in paragraph 1, 2 or 3 under subdivision (a).

SEC. 4. Article 1.9 (commencing with Section 439) is added to Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, to read:

Article 1.9. Historical Property

439. For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is "enforceably restricted" if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.1. For purposes of this article "restricted historical property" means qualified historical property meeting the requirements of Article 3 (commencing with Section 5031) of Chapter 1 of Division 5 of the Public Resources Code which is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.2. When valuing enforceably restricted historical property, the board for purposes of surveys required by Section 1815 of this code and the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value such restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent which can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in

determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument which enforceably restricts the property stipulate therein an amount which constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted.

Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing such revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board, rounded to the nearest ¼ percent.

(2) An historical property risk component of 4 percent.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements which shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from

sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Home Loan Bank Board, rounded to the nearest ¼ percent.

(2) An historical property risk component of 2 percent.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements which shall be a percentage equivalent to the reciprocal of the remaining life.

(d) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(e) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

439.3. Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the board, for purposes of surveys required by Section 1815, and the county assessor shall value such restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall:

(1) Determine the full cash value of the property as if it were not subject to an enforceable restriction;

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred;

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1) of this subdivision;

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) of this subdivision for the number of years remaining until the termination of the period for which the property is enforceably restricted;

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) of this subdivision and the value obtained in paragraph (4) of this subdivision; and

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) of this subdivision to obtain its assessed value.

439.4. No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

SEC. 5. Article 7 (commencing with Section 1161) of Chapter 5 of Part 2 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 6. Notwithstanding Sections 2231 and 2234 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to those sections nor shall there be any appropriation made by this act because there are no state-mandated local costs in this act and any revenue loss implied herein is not reimbursable under Section 2229 of the Revenue and Taxation Code.

SEC. 7. The Board of Equalization shall report to the Legislature on or before December 31, 1980, on an evaluation of the provisions of this act, including, but not limited to, an inventory of the properties valued pursuant to this act, the type of property, the annual value and taxes applicable to such property, an assessment of the factors affecting participation under this program, and recommendations to rectify any inequities identified by the report.

CHAPTER 1041

An act to amend Sections 49530.5 and 49554 of the Education Code, relating to school meals.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 49530.5 of the Education Code is amended to read:

49530.5. As used in this article, "child nutrition entity" means any school district, county superintendent of schools, child development program operated pursuant to Chapter 2 (commencing with Section 8200) or Chapter 2.5 (commencing with Section 8400) of Part 6 of Division 1 of Title 1, local agency, private school, or parochial school, or any other agency which qualifies for federal aid under the federal school lunch program or the federal child nutrition program prescribed, respectively, by Chapter 13 (commencing with Section 1751) and Chapter 13A (commencing with Section 1771) of Title 42 of the United States Code.

SEC. 2. Section 49554 of the Education Code is amended to read:

49554. Any school district or county superintendent of schools

which has inadequate or no food preparation facilities as determined by the Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract for the preparation, delivery, and service of such meals.

Prior to contracting for preparation, delivery, and service of such meals, a school district shall certify to the State Department of Education that no school district in the county nor the county superintendent of schools has the facilities and is willing to furnish such services.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1042

An act to amend Section 23661 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 22, 1977 Filed with Secretary of State September 23, 1977]

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

SECTION 1. Section 23661 of the Business and Professions Code is amended to read·

23661. Except as otherwise provided in this section, alcoholic beverages may be brought into this state from without this state for delivery or use within the state only by common carriers and only when the alcoholic beverages are consigned to a licensed importer, and only when consigned to the premises of the licensed importer or to a licensed importer or customs broker at the premises of a public warehouse licensed under this division.

The provisions of this chapter are not applicable in the case of alcoholic beverages which are sold and delivered by a licensee in this state to another licensee in this state, and which in the course of delivery are taken without this state through another state without any storage thereof in such other state.

The provisions of this section are not applicable in the case of alcoholic beverages brought into this state by an adult from without the United States for personal or household use which are exempt from payment of duty in accordance with the existing provisions of federal law. Such alcoholic beverages shall be exempt from state licensing restrictions.

The provisions of this section are not applicable in the case of

alcoholic beverages shipped into this state from without the United States by an adult member of the armed forces of the United States, serving outside the confines of the United States, for his personal or household use within the state in such quantity of alcoholic beverages as is exempt from the payment of duty under existing provisions of the Federal Tariff Act or regulations. Such alcoholic beverages may be brought into this state only by common carrier and consigned to the premises of a licensed importer or customs broker, or to a licensed importer or customs broker at the premises of a public warehouse licensed under this division. Notwithstanding any other provisions of this division, the holder of an importer's license, a customs broker's license, or a public warehouse license, may make delivery of such alcoholic beverages as may be brought into this state under the provisions of this paragraph directly to the owner thereof upon satisfactory proof of identity. Such delivery shall not be deemed to constitute a sale in this state.

A manufacturer of distilled spirits may transport such distilled spirits into this state in motor vehicles owned by or leased to the manufacturer, and operated by employees of the manufacturer, if:

(a) Such distilled spirits are transported into this state from a place of manufacture within the United States; and

(b) The manufacturer holds a California distilled spirits manufacturer's license; and

(c) Delivery is made to the licensed premises of such distilled spirits manufacturer.

SEC. 2. The State Board of Equalization shall conduct a study of the impact of the amendments made to Section 23661 of the Business and Professions Code by this act on state revenues from excise and sales taxes. The report shall be submitted to the Governor and the Legislature on or before January 1, 1979.

CHAPTER 1043

An act to amend Sections 99243, 99267, 99268.6, 99268.7, 99268.8, 99268.9, 99279, 99304.5, 99400, and 99405 of, and to add Sections 99244, 99245, 99246, 99247, 99248, and 99249 to, the Public Utilities Code, and to amend Sections 2172 and 2176 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 22, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 99243 of the Public Utilities Code is amended to read:

99243. (a) The State Controller, in cooperation with the Department of Transportation of this state and the operators, shall

design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them. The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year and (2) the estimated amount of revenues to be generated from each source and its proposed application for the next succeeding fiscal year.

(b) In establishing the uniform system of accounts and records, the State Controller shall include the data required by the United States Department of Transportation, the Department of Transportation of this state, and the Business and Transportation Agency.

(c) The uniform system of accounts and records shall be implemented not later than July 1, 1978.

SEC. 2. Section 99244 is added to the Public Utilities Code, to read:

99244. Each transportation planning agency shall annually identify, analyze, and recommend potential productivity improvements which could lower the operating costs of those operators who operate at least 50 percent of their vehicle service miles, as defined in subdivision (g) of Section 99246, within the area under its jurisdiction. However, where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall have the responsibility of the transportation planning agency with respect to potential productivity improvements. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the performance audit conducted pursuant to Section 99246.

A committee for the purpose of providing advice on productivity improvements shall be formed by the responsible entity. The membership of this committee shall consist of representatives from the management of the operators, organizations of employees of the operators, and users of the transportation services of the operators located within the area under the jurisdiction of the responsible entity.

Prior to determining the allocation to an operator for the next fiscal year, the responsible entity shall review and evaluate the efforts made by the operator to implement such recommended improvements.

If the responsible entity determines that the operator has not made a reasonable effort to implement the recommended improvements, the responsible entity shall not approve the allocation to the operator for the support of its public transportation system for the next fiscal year which exceeds the allocation to the operator for such purposes for the current fiscal year.

SEC. 3. Section 99245 is added to the Public Utilities Code, to read:

99245. Each transportation planning agency, transit development board created pursuant to Division 11 (commencing with Section

120000), and county transportation commission shall be responsible to ensure that all claimants to whom it directs the allocation of funds pursuant to this chapter shall submit to it an annual certified fiscal audit conducted by an entity other than the claimant.

A report on the audit shall be submitted to the transportation planning agency, transit development board, or county transportation commission within 180 days after the end of the fiscal year. However, the responsible entity may grant an extension of up to 90 days as it deems necessary. The report shall include a certification that the funds allocated to the claimant pursuant to this chapter were expended in conformance with applicable laws and rules and regulations. Except for the first report, the report shall also include the audited amounts for the fiscal year prior to the fiscal year audited.

SEC. 4. Section 99246 is added to the Public Utilities Code, to read:

99246. (a) The transportation planning agency shall designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance audit of its activities, and those of county transportation commissions and transit development boards located in the area under its jurisdiction, with respect to this chapter and of each operator to whom it allocates funds. The transportation planning agency shall consult with the entity to be audited prior to designating the entity to make the performance audit.

Where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall designate entities other than itself, a transportation planning agency, or an operator to make a performance audit of its activities and those of operators located in the area under its jurisdiction to whom it directs the allocation of funds. The board or commission shall consult with the entity to be audited prior to designating the entity to make the performance audit.

(b) The performance audit shall evaluate the efficiency, effectiveness, and economy of the operation of the entity being audited and shall be conducted in accordance with the efficiency, economy, and program results portions of the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." A performance audit shall be submitted by July 1, 1980, and by July 1 triennially thereafter.

(c) With respect to an operator providing public transportation services by motor vehicles, the performance audit shall include, but not be limited to, a verification of the operator's operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee, as defined in Section 99247. The performance audit may include consideration of the needs and types of the passengers being served.

SEC. 5. Section 99247 is added to the Public Utilities Code, to read:

99247. For purposes of Section 99246:

(a) "Operating cost" means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243.

(b) "Operating cost per passenger" means the operating cost divided by the total passengers.

(c) "Operating cost per vehicle service hour" means the operating cost divided by the vehicle service hours.

(d) "Passengers per vehicle service hour" means the total passengers divided by the vehicle service hours.

(e) "Passengers per vehicle service mile" means the total passengers divided by the vehicle service miles.

(f) "Total passengers" means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.

(g) "Vehicle service hours" means the total number of hours that each motor vehicle is in revenue service, including layover time.

(h) "Vehicle service miles" means the total number of miles that each motor vehicle is in revenue service.

(i) "Vehicle service hours per employee" means the vehicle service miles divided by the number of employees employed in connection with the public transportation system, based on the assumption that one employee is paid for 2,080 hours of employment in one year. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the operation of the public transportation system even though not employed in that agency.

SEC. 6. Section 99248 is added to the Public Utilities Code, to read:

99248. No operator shall be eligible to receive an allocation under this chapter for any fiscal year until the transmittal of reports of its performance audit to the entity which determines the allocation to the operator, the transportation planning agency, and the Secretary of the Business and Transportation Agency for the three-year period ending one year prior to the beginning of the fiscal year of the proposed allocation. The secretary shall compile such reports and make them available to interested parties.

SEC. 7. Section 99249 is added to the Public Utilities Code, to read:

99249 The cost of making the performance audits may be deemed an administrative cost of the transportation planning agencies for purposes of Section 99233.1. However, the Legislature encourages the use of funds made available by the federal government to support such purposes.

SEC. 7.5. Section 99267 of the Public Utilities Code is amended to read:

99267. (a) At least 15 percent of funds received under this article shall be used by an operator for capital expenditures. If, on January 1, 1975, the operator is a city and county with a population of 700,000

or more, it shall use at least 75 percent of such funds for capital expenditures, except that other funds allocated to the city and county for capital expenditures on public transportation systems may be applied to meet this requirement.

(b) Such capital expenditures shall consist of acquisition of land and other real property, current acquisition or replacement of transportation vehicles or conveyances (including those usable by handicapped persons), and acquisition, construction, enlargement, or repair of property and facilities incidental to or necessary or convenient in connection with the foregoing, depreciation, and payment of principal and interest on its bonded indebtedness, equipment trust certificates, or other indebtedness, including any amounts in the accomplishment of a defeasance under any outstanding revenue bond indenture.

(c) The requirement specified in subdivision (a) shall not apply (1) to an operator in each fiscal year that it receives financial assistance from local sources, exclusive of fares, in an amount equal to or greater than the amount it would have been required to expend pursuant to subdivision (a) or (2) to money allocated to a transit district for a claim filed pursuant to Section 99260.5.

SEC. 8. Section 99268.6 of the Public Utilities Code is amended to read:

99268.6. If a joint powers entity providing public transportation services was funded at any time pursuant to Section 99268.5 and is subsequently dissolved, any succeeding entity providing such services shall not be eligible for funding under that section except for that portion of a five-year period during which the prior joint powers entity was not funded under that section or except as provided in subdivision (a) of Section 99268.5.

SEC. 9. Section 99268.7 of the Public Utilities Code is amended to read:

99268.7. Any unallocated funds resulting from the limitations of Sections 99268 and 99268.5 may be used for capital intensive transit-related improvements. Every effort shall be made to obtain federal funds for the purposes of this section. Such improvements shall include, but not be limited to, park-and-ride lots, terminal facilities, bus waiting shelters, exclusive lanes for buses, and the acquisition of vehicles and rolling stock for replacement purposes.

SEC. 10. Section 99268.8 of the Public Utilities Code is amended to read:

99268.8. With respect to an operator in a county with a population of less than 500,000, as determined by the 1970 federal decennial census, the requirements of Sections 99268, 99268.5, and 99269 may be waived for a period not to exceed two years by the State Transportation Board if the board finds all of the following:

(a) The service being provided by the operator is in conformity with the regional transportation plan.

(b) Efforts have been made by the operator to obtain other available funds.

(c) The service provided by the operator is being efficiently managed.

(d) There are unique patterns of development and service which contribute to an unusually low ratio of passengers per vehicle mile.

(e) There is a transit-dependent population isolated in sparsely settled areas.

The board may grant additional waivers, but not to exceed two years each.

SEC. 10.3. Section 99268.9 of the Public Utilities Code is amended to read:

99268.9. An operator seeking a waiver from the requirements of Sections 99268 and 99268.5 shall submit an application therefor to the Department of Transportation for evaluation on the basis of the criteria set forth in Section 99268.8. The department shall submit its recommendations to the State Transportation Board, on the application within 60 days after receiving it.

The board shall expeditiously act on the application, and shall condition any waiver granted that the operator improve its operational efficiency to achieve a specified goal to minimize its operational deficits by the end of the waiver period and shall impose any other condition on the waiver it deems appropriate to improve the operational efficiency of the operator. Each successive waiver shall be conditioned on improvements in the goals established by the board for previous waiver period.

SEC. 10.5. Section 99279 of the Public Utilities Code is amended to read:

99279. The Auditor General, in cooperation with the Legislative Analyst and the Department of Transportation, shall initiate an evaluation of this program of community transit services not later than July 1, 1979. Among the factors to be considered in the evaluation are calculations of the operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle hours per employee, as defined in Section 99247, for the various community transit service programs funded. A report containing conclusions and recommendations shall be submitted to the Legislature not later than January 1, 1980.

SEC. 11. Section 99304.5 of the Public Utilities Code is amended to read:

99304.5. In those counties with county transportation commissions created pursuant to Division 12 (commencing with Section 130000), the transportation planning agency, for the last half of the 1976–77 fiscal year, shall allocate to the commissions their proportionate share of the fund pursuant to Section 99233.2.

SEC. 12. Section 99400 of the Public Utilities Code, as amended by Chapter 1348 of the Statutes of 1976, is amended to read:

99400 Claims may be filed with the transportation planning agency by cities and counties under this article for the following purposes.

(a) Local streets and roads, including facilities provided for exclusive use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service under Section 403(b) of the Federal Rail Passenger Service Act (45 U.S.C., Sec. 563(b)).

(c) Payment to any of the following entities which are under contract with a county or a city for public transportation or for transportation services for any group, as determined by the transportation planning agency, requiring special transportation assistance:

(1) A common carrier, as defined in Section 211, engaged in the transportation of persons, as defined in Section 208.

(2) A private entity operating under a franchise or license.

(3) A nonprofit corporation organized pursuant to Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code.

(4) An operator.

If the county or the city is being served by an operator, the contract entered into by such a county or city with an entity specified in paragraph (1), (2), or (3) of subdivision (c) shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated with the public transportation service provided by the operator.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

SEC. 13. Section 99405 of the Public Utilities Code is amended to read:

99405. (a) Except as otherwise provided in this section, the allocation for any purpose specified in Section 99400 may in no year exceed 50 percent of the amount required to meet the city's or county's total proposed expenditures for that purpose.

(b) With respect to budgeted capital requirements for major new facilities, the transportation planning agency, notwithstanding the 50-percent limitation, may allocate up to the amount so budgeted, if the construction of such facilities has been found to be not inconsistent with the transportation planning agency's regional transportation plan.

(c) The allocation to a city or county for services under contract pursuant to subdivision (c) of Section 99400 may exceed the 50-percent limitation by an amount equal to the fare revenues received by the entity providing the services and not transferred to the city or county.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city with a population of less than 5,000.

SEC. 14. Section 2172 of the Streets and Highways Code is amended to read.

2172. The department shall be responsible for the administration, implementation, marketing, and evaluation of the projects. The department shall seek the assistance of an advisory group for each corridor.

The Secretary of the Business and Transportation Agency shall appoint the advisory groups, which shall include representatives from user groups, consumer groups, the various public and private transit operators serving the area in which the corridor is located, the transportation planning agencies having jurisdiction of the areas within the corridor, the Public Utilities Commission, and other public and private entities affected by projects in the corridor

SEC. 15. Section 2176 of the Streets and Highways Code is amended to read:

2176. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency may undertake a program to provide express bus service between Stockton and that portion of the system of the San Francisco Bay Area Rapid Transit District between its rapid transit tube and Fremont. Such service shall be provided by operators, as defined in Section 99210 of the Public Utilities Code, or by passenger stage corporations, as defined in Section 226 of the Public Utilities Code.

CHAPTER 1044

An act to amend, add, and repeal Sections 23394 and 25171 of, and to add Section 25503.13 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 23, 1977. Filed with Secretary of State September 23, 1977.]

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

SECTION 1. Section 23394 of the Business and Professions Code is amended to read:

23394. An off-sale general license includes the privileges specified in Section 23393 and authorizes the sale, to consumers only and not for resale, except to holders of daily on-sale general licenses issued pursuant to Section 24045.1, of distilled spirits for consumption off the premises where sold. Standards of fill for distilled spirits authorized for sale pursuant to this section shall conform in all respects to the standards established pursuant to regulations issued under the Federal Alcohol Administration Act (27 U.S.C. Secs. 201 et seq.) and any amendments thereto. An off-sale general license shall not authorize the purchase or sale of distilled spirits in packages containing less than six ounces or whiskey, gin, or vodka in packages containing one-tenth gallon.

Notwithstanding the provisions of this section, an off-sale general license shall authorize the purchase or sale of liqueurs meeting the requirements of class 6 of Section 18015 of Title 17 of the California Administrative Code in packages containing two and one-half ounces or 75 milliliters.

This section shall remain in effect only until January 1, 1980, and as of that date is repealed.

SEC. 1.5. Section 23394 is added to the Business and Professions Code, to read:

23394. An off-sale general license includes the privileges specified in Section 23393 and authorizes the sale, to consumers only and not for resale, except to holders of daily on-sale general licenses issued pursuant to Section 24045.1, of distilled spirits for consumption off the premises where sold. Standards of fill for distilled spirits authorized for sale pursuant to this section shall conform in all respects to the standards established pursuant to regulations issued under the Federal Alcohol Administration Act (27 U.S.C. Secs. 201 et seq.) and any amendments thereto. An off-sale general license shall not authorize the purchase or sale of distilled spirits in packages containing less than six ounces or whiskey, gin, or vodka in packages containing one-tenth gallon.

This section shall become operative on January 1, 1980.

SEC. 2. Section 25171 of the Business and Professions Code is amended to read:

25171. Any rectifier or wholesaler of distilled spirits who delivers to the premises of any on- or off-sale general licensee or any on- or off-sale general licensee who sells or has in his possession at the licensed premises distilled spirits in packages containing standards of fill for distilled spirits which do not conform in all respects to the federal standards established pursuant to the regulations issued under the Federal Alcohol Administration Act (27 U.S.C. Secs. 201 et seq.) and any amendments thereto is guilty of a misdemeanor, except that this section does not apply to packages of distilled spirits in containers less than one-half pint which are sold and delivered to railroad, sleeping car, steamship companies, or common carriers operating vessels, as defined in Section 238 of the Public Utilities Code, under a certificate of public convenience and necessity, or air common carriers for use and consumption on trains, boats, or airplanes.

Notwithstanding the provisions of this section, a rectifier or wholesaler of distilled spirits may not purchase or sell whiskey, gin or vodka in packages containing one-tenth of a gallon.

Notwithstanding the provisions of this section, a rectifier or wholesaler may deliver to the premises of any off-sale general licensee, and an off-sale general licensee may sell or possess, liqueurs meeting the requirements of class 6 of Section 18015 of Title 17 of the California Administrative Code in packages containing two and one-half ounces or 75 milliliters.

This section shall remain in effect only until January 1, 1980, and as of that date is repealed.

SEC. 3. Section 25171 is added to the Business and Professions Code, to read:

25171. Any rectifier or wholesaler of distilled spirits who delivers

to the premises of any on- or off-sale general licensee or any on- or off-sale general licensee who sells or has in his possession at the licensed premises distilled spirits in packages containing standards of fill for distilled spirits which do not conform in all respects to the federal standards established pursuant to the regulations issued under the Federal Alcohol Administration Act (27 U.S.C. Secs. 201 et seq.) and any amendments thereto is guilty of a misdemeanor, except that this section does not apply to packages of distilled spirits in containers less than one-half pint which are sold and delivered to railroad, sleeping car, steamship companies, or common carriers operating vessels, as defined in Section 238 of the Public Utilities Code, under a certificate of public convenience and necessity, or air common carriers for use and consumption on trains, boats, or airplanes.

Notwithstanding the provisions of this section, a rectifier or wholesaler of distilled spirits may not purchase or sell whiskey, gin or vodka in packages containing one-tenth of a gallon.

This section shall become operative on January 1, 1980.

SEC. 4. Section 25503.13 is added to the Business and Professions Code, to read:

25503.13. (a) In order to alleviate the adverse economic and social consequences of high unemployment in identifiable urban and rural areas of California, the Legislature finds it in the public interest to encourage the private sector to create new employment and job-training opportunities for low-income persons and establish business enterprises owned and managed by such persons. To provide such opportunities it is necessary for companies with sufficient financial resources, management experience and marketing strength to establish as a principal operating objective the creation of definitive programs for obtaining these goals.

(b) Notwithstanding any other provision of this division, a manufacturer, rectifier, distiller, winegrower or bottler of wine who produces and sells only wine in an area outside of the United States, its territories or possessions and outside of foreign countries having common boundaries with any state of the United States, and who is not licensed in the United States, its territories or possessions, or any officer, director or agent of any such person or a person holding the ownership, directly or indirectly, of any interest in any such manufacturer, rectifier, distiller, winegrower or bottler of wine may have an interest in a person holding an on-sale license, provided, that the wine produced or sold by such manufacturer, rectifier, distiller, winegrower or bottler of wine is not sold, furnished or given, directly or indirectly to such on-sale licensee, provided further, that food shall also be sold at the on-sale premises, and, provided further, that any on-sale license that may be granted under this section shall be conditioned so as to promote, where feasible, the following objectives in accordance with the public policy set forth in subdivision (a) above:

(1) The location of a significant number of on-sale premises in or accessible to areas of high unemployment,

(2) The employment and management training of low-income individuals, particularly those who, because of race, sex, age or national origin, suffer a rate of unemployment significantly higher than the statewide average and

(3) The minority ownership of licensed businesses operating on-sale premises pursuant to a franchise agreement.

The department, after consu tation with the Secretary of Business and Transportation, the Department of Business and Economic Development, the Chief of the Division of Fair Employment Practices, and the Director of the Employment Development Department, shall adopt such rules as it determines to be necessary for the administration of this section.

SEC. 5. It is the intent of the Legislature that the amendments to Sections 23394 and 25171 of the Business and Professions Code which are made by Sections 1 and 2 of this act shall remain in effect only until January 1, 1980, and on that date Sections 1.5 and 3 of this act shall become operative to restore Sections 23394 and 25171 to the form in which they read immediately prior to the effective date of this act.

CHAPTER 1045

An act to amend Section 21080 of the Public Resources Code, relating to power facility and site certification.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or

facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Actions undertaken by a public agency relating to any powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the purchase of equipment, fuel, steam, or power for such a powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located.

(c) In the event that a public agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such public agency shall adopt a negative declaration to that effect.

CHAPTER 1046

An act to amend Sections 10554, 14104.5, and 14105 of, to add Sections 14100.1, 14203, 14314, and 14315 to, to add Article 5.3 (commencing with Section 14170) to Chapter 7 of Part 3 of Division 9 of, and to repeal Section 14100.1 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Section 10554 of the Welfare and Institutions Code is amended to read:

10554. Except as provided by Section 14100.1, the director is the only person authorized to adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law enforced by the department, and such regulations, orders, and standards shall be adopted, amended, or repealed by the director only in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, provided that such regulations need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department.

In adopting regulations the director shall strive for clarity of language which may be readily understood by those administering

aid or subject to such regulations.

The rules of the department need not specify or include the detail of forms, reports or records, but shall include the essential authority by which any person, agency, organization, association or institution subject to the supervision or investigation of the department is required to use, submit or maintain such forms, reports or records.

SEC. 2. Section 14100.1 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 14100.1 is added to the Welfare and Institutions Code, to read:

14100.1. For purposes of administering this chapter and Chapter 8 (commencing with Section 14200) of this part, the State Department of Health is hereby designated as the single or appropriate state agency with full power to administer and adopt regulations in order to secure full compliance with applicable provisions of state and federal laws.

SEC. 4. Section 14104.5 of the Welfare and Institutions Code is amended to read:

14104.5. Notwithstanding any other provision of law, the director shall by regulation adopt such procedures as are necessary for the review of a grievance or complaint concerning the processing or payment of money alleged by a provider of services to be payable by reason of any of the provisions of this chapter. After complying with such procedures if the provider is not satisfied with the director's decision on his claim, he may not later than one year after receiving notice of such decision, present a claim for money against the state in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of the Government Code and proceed in the manner provided in Part 3 (commencing with Section 900), Part 4 (commencing with Section 940) and Part 5 (commencing with Section 965) of Division 3.6 of the Government Code. The provisions of this section shall be the exclusive remedy available to the provider of services for moneys alleged to be payable by reason of the provisions of this chapter.

This section shall not apply to those grievances or complaints arising from the findings of an audit or examination made by or on behalf of the Director of Benefit Payments pursuant to Sections 14102 and 14170. Article 5.3 (commencing with Section 14170) of this chapter shall govern such grievances or complaints.

SEC. 5. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200) of this part. Standards for costs

shall be based on payments of the reasonable cost for such services.

Insofar as practical, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall receive health care benefits.

If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Section 14005.1. When and if necessary, such action shall be taken by the director in ways consistent with the requirements of the federal Social Security Act.

SEC. 5.1. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services and supplies, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services and supplies provided under this chapter. Standards for costs shall be based on payments of the reasonable cost for such services and supplies.

The director shall adopt regulations each year establishing rates of payment for services and supplies provided under this chapter. Notwithstanding any other provision of law, the director shall make such regulations operative on the same date funds are appropriated by the Legislature for such payment.

In determining the reasonable cost of services and supplies, the director shall solicit and consider data submitted by professional associations representing each health care provider group and other interested health care providers.

SEC. 5.2. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. The director shall prescribe the policies to be followed in the administration of this chapter and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200) of this part. Standards for costs shall be based on payments of the reasonable cost for such services, provided that reimbursement to county-operated facilities providing services shall be no less than the reimbursement made to private providers of services.

Insofar as practical, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall

receive health care benefits.

If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Section 14005.1. When and if necessary, such action shall be taken by the director in ways consistent with the requirements of the federal Social Security Act.

SEC. 5.3. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. The director shall prescribe the policies to be followed in the administration of this chapter and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services and supplies provided under this chapter. Standards for costs shall be based on payments of the reasonable cost for such services and supplies, provided that reimbursement to county-operated facilities providing services shall be no less than the reimbursement made to private providers of services.

The director shall adopt regulations each year establishing rates of payment for services and supplies provided under this chapter. Notwithstanding any other provision of law, the director shall make such regulations operative on the same date funds are appropriated by the Legislature for such payment.

In determining the reasonable cost of services and supplies, the director shall solicit and consider data submitted by professional associations representing each health care provider group and other interested health care providers.

SEC. 6. Article 5.3 (commencing with Section 14170) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 5.3. Audit, Appeal, and Recovery of Overpayments

14170. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the Department of Benefit Payments in the manner and form prescribed by it. The Department of Benefit Payments shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the Department of Benefit Payments within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods

beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

14171. (a) The director shall adopt regulations establishing an administrative appeal process to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 14102 and 14170.

(b) The director shall contract with the Department of Benefit Payments to conduct hearings or other proceedings and to prepare proposed decisions for adoption by the director pursuant to such regulations.

(c) The administrative appeal process established by the director shall guarantee a provider the right to present any grievances or complaints arising from the findings of an audit or examination made by or on behalf of the Department of Benefit Payments pursuant to Sections 14102 and 14105 at an impartial hearing which shall include the procedural requirements of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the Director of Benefit Payments. The Director of Benefit Payments may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(d) Notwithstanding subdivision (c) of this section, the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the Department of Benefit Payments, and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c).

(e) The final decision of the director shall be reviewable in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider for health care services identified through an audit or examination conducted by or on behalf of the Director of Benefit

Payments, and the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the issuance of such final decision, the Director of Benefit Payments may, not later than three years after the payment became due and owing, file in the office of the County Clerk of Sacramento County, and with the county clerk of the county in which the provider has his principal place of business, a certificate containing the following:

(1) The amount due and owing and unpaid plus interest at the rate of 7 percent per annum commencing 30 days after the service of notice of an overpayment arising from the finding of an audit or examination made pursuant to Sections 14102 and 14170.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of such certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. Such judgment may be filed by the county clerk in a looseleaf book entitled "Health Care Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (e) of Section 14171 and notice of such action is properly served on the Director of Benefit Payments within 90 days of the issuance of the final decision of the director, the Director of Benefit Payments shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (e) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the Director of Benefit Payments may file the certificate provided in subdivision (a); provided, however, if the provider seeks judicial review of the final decision of the director more than 90 days from the date of such decision in accordance with subdivision (e) of Section 14171, the Director of Benefit Payments shall within 10 days after receiving notice of such action release any lien imposed pursuant to this article and any judgment entered pursuant to subdivision (a) shall be considered for all purposes null and void.

(c) No certificate shall be filed or judgment entered pursuant to the provisions of this section or Section 14173 against a provider which meets the following criteria:

(1) The provider is an unincorporated individual practitioner, and

(2) The provider was not certified to participate under the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part, on the date of issuance of the final decision of the director establishing an overpayment.

Nothing in this subdivision shall prevent the director from using any other means available at law to recover amounts due and owing

and unpaid from such providers.

14173. An abstract of a judgment obtained pursuant to subdivision (a) of Section 14172 or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real property of the provider in that county owned by the provider at the time, or which the provider may afterwards but before the lien expires, acquire. The lien shall have the force, effect and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivision (a) of Section 14172 unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new abstract in the office of the county recorder of any county. From the date of such recording the lien shall be extended for 10 years unless sooner released or otherwise discharged.

Execution shall issue upon such a judgment upon request of the Director of Benefit Payments in the same manner as execution may issue upon other judgments. Sale shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section, the Director of Benefit Payments or his authorized agents may act on behalf of the state.

14174. The right of the Director of Benefit Payments to use the summary judgment procedure contained in this article shall be in addition to any other collection procedure available to him. No action taken by the director shall be construed to be an election to pursue the summary judgment procedure to the exclusion of any other collection procedure.

14175. The Director of Benefit Payments may release any lien imposed pursuant to subdivision (a) of Section 14172 if he finds that the liability represented by the lien, including any interest accrued thereon, has been paid or is legally unenforceable.

14176. The Director of Benefit Payments may recover a due and payable overpayment made to a provider which is or has been participating under the provisions of this chapter by means of a repayment agreement executed between such provider and the Director of Benefit Payments, and by any other means available at law.

14177. When it has been determined that a provider of health care services participating under the provisions of this chapter has received an overpayment which is due and payable, the director may recover such overpayment by offset against any amount currently due to a provider under the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part.

SEC. 7. Section 14203 is added to the Welfare and Institutions Code, to read:

14203. For purposes of administering this chapter and Chapter 7 (commencing with Section 14000) of this part, the State Department

of Health is hereby designated as the single or appropriate state agency with full power to administer and adopt regulations in order to secure full compliance with applicable provisions of state and federal laws.

SEC. 8. Section 14314 is added to the Welfare and Institutions Code, to read:

14314. The Director of Benefit Payments may recover a due and payable overpayment made to a prepaid health plan by means of a repayment agreement executed between such prepaid health plan and the Director of Benefit Payments, and by any other means available at law.

SEC. 9. Section 14315 is added to the Welfare and Institutions Code, to read:

14315. When it has been determined that a prepaid health plan has received an overpayment which is due and payable, the director may recover such overpayment by offset against any amount currently due to the prepaid health plan under the provisions of this chapter or Chapter 7 (commencing with Section 14000) of this part.

SEC. 10. It is the intent of the Legislature that if this bill and Senate Bill No. 603 or Senate Bill No. 660, or both, are chaptered, become effective on or before January 1, 1978, and amend Section 14105 of the Welfare and Institutions Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Senate Bill No. 603 are both chaptered, become effective on or before January 1, 1978, and amend Section 14105 of the Welfare and Institutions Code, but Senate Bill No. 660 is not chaptered on or before such date or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 603, the amendments proposed by both bills shall be given effect and incorporated in Section 14105 in the form set forth in Section 5.1 of this act. Therefore, if Senate Bill No. 603 is chaptered before this bill and both bills become effective on or before January 1, 1978, and amend Section 14105, and Senate Bill No. 660 is not chaptered or as chaptered does not amend that section, Section 5.1 of this act shall be operative and Sections 5, 5.2, and 5.3 of this act shall not become operative.

(b) If this bill and Senate Bill No. 660 are both chaptered, become effective on or before January 1, 1978, and amend Section 14105 of the Welfare and Institutions Code, but Senate Bill No. 603 is not chaptered on or before such date or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 660, the amendments proposed by both bills shall be given effect and incorporated in Section 14105 in the form set forth in Section 5.2 of this act. Therefore, if Senate Bill No. 660 is chaptered before this bill and both bills become effective on or before January 1, 1978, and amend Section 14105, and Senate Bill No. 603 is not chaptered or as chaptered does not amend that section, Section 5.2 shall be operative and Sections 5, 5.1, and 5.3 of this act shall not become operative.

(c) If this bill and Senate Bill No. 603 and Senate Bill No. 660 are all chaptered and become effective on or before January 1, 1978, and all three bills amend Section 14105 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 603 and Senate Bill No. 660, the amendments proposed by all three bills shall be given effect and incorporated in Section 14105 in the form set forth in Section 5.3 of this act. Therefore, if Senate Bill No. 603 and Senate Bill No. 660 are both chaptered before this bill and all three bills become effective on or before January 1, 1978, and amend Section 14105 of the Welfare and Institutions Code, Section 5.3 of this act shall be operative and Sections 5, 5.1, and 5.2 of this act shall not become operative.

CHAPTER 1047

An act to amend Section 51202 of the Education Code, relating to courses of study.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. It is the intent of the Legislature that the adopted course of study for grades 1 through 12 include instruction in first aid and cardiopulmonary resuscitation, giving consideration to guidelines developed by the American National Red Cross and the American Heart Association.

SEC. 2. Section 51202 of the Education Code is amended to read:

51202. The adopted course of study shall provide instruction at the appropriate elementary and secondary grade levels and subject areas in personal and public safety and accident prevention, including emergency first aid instruction, instruction in hemorrhage control, treatment for poisoning, resuscitation techniques, and cardiopulmonary resuscitation when appropriate equipment is available; fire prevention; the protection and conservation of resources, including the necessity for the protection of our environment; and health, including the effects of alcohol, narcotics, drugs, and tobacco upon the human body.

SEC. 2.5. Section 51202 of the Education Code is amended to read:

51202. The adopted course of study shall provide instruction at the appropriate elementary and secondary grade levels and subject areas in personal and public safety and accident prevention, including emergency first aid instruction, instruction in hemorrhage control, treatment for poisoning, resuscitation techniques, and cardiopulmonary resuscitation when appropriate equipment is available; fire prevention; the protection and conservation of

resources, including the necessity for the protection of our environment; and health, including venereal disease and the effects of alcohol, narcotics, drugs, and tobacco upon the human body.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 1209 are both chaptered and become effective January 1, 1978, both bills amend Section 51202 of the Education Code, and this bill is chaptered after Assembly Bill No. 1209, that the amendments to Section 51202 proposed by both bills be given effect and incorporated in Section 51202 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 1209 are both chaptered and become effective January 1, 1978, both amend Section 51202, and this bill is chaptered after Assembly Bill No. 1209, in which case Section 2 of this act shall not become operative

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1048

An act to add Section 987.9 to, the Penal Code, relating to investigation funds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Section 987.9 is added to the Penal Code, to read:

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

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

SEC. 2. This act shall become operative only if Senate Bill No. 155 of the 1977–78 Regular Session is chaptered.

SEC. 3. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

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

The California Supreme Court has declared the existing death penalty law unconstitutional. This act remedies one aspect of the constitutional infirmities found to be in existing law, and in order to guarantee the public the protection inherent in an operative death penalty law, it is necessary that this act take effect immediately.

CHAPTER 1049

An act relating to the California State Exposition and Fair, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. To ensure the efficient operation of the California State Exposition and Fair, the Department of Parks and Recreation may purchase, subject to the review and approval of the Department of General Services and the Department of Finance, any outstanding contract with the Atlas Greater Shows Division of Atlas Amusement Enterprises, Inc., relating to the provision of amusement park and carnival services and facilities at the California State Exposition and Fair.

SEC. 2. The sum of two million three hundred seventy-five thousand dollars ($2,375,000) is hereby appropriated from the General Fund to the following agencies for expenditure in accordance with the following schedule:

Schedule:

(a) The sum of two million three hundred twenty-five thousand dollars ($2,325,000), or so much thereof as may be necessary, for expenditure by the Department of Parks and Recreation for the

purposes of Section 1 of this act.

(b) The sum of fifty thousand dollars ($50,000), or so much thereof as may be necessary, for expenditure by the Division of Exposition and State Fair in the Department of Parks and Recreation for costs to be incurred as a result of the termination of amusement park and carnival services provided by the Atlas Greater Shows Division of Atlas Amusement Enterprises, Inc.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act provides for the purchase of certain outstanding contracts relating to the California State Exposition and Fair. Such purchase must be made at the earliest possible time in order to provide maximum benefit to the state, and thus, it is necessary that this act take effect immediately.

CHAPTER 1050

An act to amend Section 73641 of the Government Code, relating to municipal courts.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Section 73641 of the Government Code is amended to read:

73641. There shall be six judges.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act, because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1051

An act to amend Section 83 of the Code of Civil Procedure, to add and repeal Sections 73650, 73651, 73652, 73653, 73653.5, 73654, 73655, 73655.5, 73656, 73656.5, 73657, and 73658 of the Government Code, and to amend Section 1462.1 of the Penal Code, relating to courts.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977.]

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

SECTION 1. The Legislature finds and declares (1) that the number of cases brought before the courts of this state is constantly increasing; (2) that this increase imposes grievous delays and costs upon the public; (3) that it has the duty to authorize experiments in court organization and procedure as a way of reducing this burden and improving the administration of justice; and (4) that the increased jurisdiction provided by this act to the El Cajon Municipal Court is such an experiment conducted for this purpose.

The Legislature further finds and declares that the El Cajon Municipal Court remains a municipal court and that it is to have no additional authority other than provided in this act.

SEC. 2. Section 83 of the Code of Civil Procedure is amended to read:

83. Except as provided in Article 9 (commencing with Section 73640) of Chapter 10 of Title 8 of the Government Code, the jurisdiction of municipal and justice courts is the same and concurrent.

The amendments to this section made during the 1977 portion of the 1977–78 Regular Session of the Legislature shall have no force or effect on or after January 1, 1983, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 3. Section 73650 is added to the Government Code, to read:

73650. (a) In addition to that provided in Section 86 of the Code of Civil Procedure, the El Cajon Municipal Court shall have original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000), except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except such courts shall have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership are more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000); in actions of interpleader where the amount of money or the value of the property involved is more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000).

(3) In actions to cancel or rescind a contract when such relief is sought in connection with an action to recover money exceeding five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000) or property of a value in excess of five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000), paid or delivered under, or in consideration of, such contract; in actions to revise a contract where such relief is sought in an action upon such contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the rental value is more than six hundred dollars ($600) but less than two thousand five hundred dollars ($2,500) per month and the whole amount of damages claimed is more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000).

(5) In all actions to enforce and foreclose liens on personal property where the amount of such liens is more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000).

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 1181) of Title 4 of Part 3 of this code where the amount of such liens is more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000); provided, that where an action to enforce any such lien is pending in the El Cajon Municipal Court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of such liens sought to be foreclosed against the same property by action or actions in the El Cajon Municipal Court aggregates an amount in excess of five thousand dollars ($5,000), but less than thirty thousand dollars ($30,000), the court, upon motion of any interested party, shall order such action or actions pending therein transferred to the proper superior court. Upon the making of such order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the El Cajon Municipal Court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the El Cajon Municipal Court has jurisdiction; to appoint a receiver in aid of execution as provided in subdivision 4 of Section 564; to charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in Section 15028 of the Corporations Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in such section; in proceedings under Section 689, or any amendments thereof, to determine title to personal property seized in an action pending in, or upon execution issued by, such court.

(9) In all actions under Section 720 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value in excess of five thousand dollars ($5,000), but less than thirty thousand dollars ($30,000) or the debt denied exceeds five thousand

dollars ($5,000) but less than thirty thousand dollars ($30,000).

(b) In addition to that provided in Section 86 of the Code of Civil Procedure, the El Cajon Municipal Court shall have jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in such court.

(3) To vacate a judgment or order of such municipal court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, such court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) The proper court for the trial of an action under this section shall be the El Cajon Municipal Court when all parties reside within the El Cajon Judicial District.

(e) In all matters brought pursuant to this section, any party may, within 30 days of being served, bring a motion to transfer the matter to the superior court, and the court shall grant such motion. If a party fails to bring such motion within 30 days of being served, such party shall be deemed to have submitted to the jurisidiction of the court, and shall thereafter be estopped to contest its jurisdiction over that matter.

The filing fees for all matters brought pursuant to this section shall be the same as for the superior court.

SEC. 4. Section 73651 is added to the Government Code, to read:

73651. (a) Notwithstanding the provisions of Section 4351 of the Civil Code, the El Cajon Municipal Court shall have jurisdiction of cases arising under Part 5 (commencing with Section 4000) of Division 4 of the Civil Code.

(b) The proper court for the trial of an action under this section shall be the El Cajon Municipal Court when all parties reside within the El Cajon Judicial District.

(c) In all matters brought pursuant to this section, either party may, within 10 days of service of the petition, bring a motion to transfer the matter to the superior court, and the court shall grant such motion. If a party fails to bring such motion within 10 days of service of the petition, such party shall be deemed to have submitted to the jurisdiction of the court for all purposes, and shall thereafter be estopped to contest its jurisdiction over that matter.

The filing fees for all matters brought pursuant to this section shall be the same as for the superior court.

SEC. 5. Section 73652 is added to the Government Code, to read:

73652. (a) In addition to that provided in Section 1462 of the Penal Code, the El Cajon Municipal Court shall have jurisdiction in all criminal cases amounting to a felony, for which any specification of three time periods of imprisonment in any state prison is

prescribed by law, and where the offense was committed within the El Cajon Judicial District.

(b) In any criminal case which could be tried by the El Cajon Municipal Court pursuant to subdivision (a) of this section, all parties may, after the magistrate has found there was probable cause a felony has been committed by the defendant, consent in writing that the case be tried by the El Cajon Municipal Court. If any party refuses to consent, the case shall be transferred to the Superior Court of San Diego County. If the prosecution is by indictment, the case shall be tried by the Superior Court of San Diego County.

SEC. 6. Section 73653 is added to the Government Code, to read:

73653. Notwithstanding the provisions of Section 425.10 of the Code of Civil Procedure, an action for personal injury or wrongful death filed in the El Cajon Municipal Court pursuant to this act shall state that the amount of recovery or damages is more than five thousand dollars ($5,000) but less than thirty thousand dollars ($30,000) in the complaint or cross-complaint.

SEC. 7. Section 73653.5 is added to the Government Code, to read:

73653.5. Notwithstanding any other provision of law, the El Cajon Municipal Court may adopt local court rules to implement the purposes of this act.

SEC. 8. Section 73654 is added to the Government Code, to read:

73654. (a) All matters before the El Cajon Municipal Court pursuant to this act shall be conducted under the procedural rules applicable to matters before the superior court.

(b) Nothing in this act shall deny or abridge any procedural or substantive right of any litigant including a defendant in a criminal case.

SEC. 9. Section 73655 is added to the Government Code, to read:

73655. (a) No judge serving on the El Cajon Municipal Court shall sit or act as such in any action or proceedings before the court pursuant to Section 73650, 73651, or 73653 unless for a combined total of 10 years he shall have been a member of the State Bar or served as a judge of a court of record, or both.

(b) In any action before the El Cajon Municipal Court pursuant to Section 73652, no judge who has heard the preliminary examination shall hear a motion authorized by Section 995 of the Penal Code or a subsequent motion authorized by Section 1538.5 of the Penal Code.

SEC. 10. Section 73655.5 is added to the Government Code, to read:

73655.5. With respect to any action or proceeding described in Sections 73650, 73651, and 73652, the jurisdiction of the Superior Court of San Diego County and the El Cajon Municipal Court is the same and concurrent.

If any matter that could be heard under Sections 73650 to 73658, inclusive, is filed in the Superior Court of San Diego County, the matter shall be heard and tried by the superior court. Nothing in

Sections 73650 to 73658, inclusive, shall be construed to constitute a basis for any motion of change of venue from the San Diego Superior Court to the El Cajon Municipal Court.

SEC. 11. Section 73656 is added to the Government Code, to read:

73656. In any action or proceeding before the El Cajon Municipal Court pursuant to Section 73650, 73651, or 73652, any appeal shall be to the Court of Appeals of the Fourth District. In any action or proceeding brought pursuant to any other section, an appeal shall be as otherwise provided by law. The California Rules of Court which apply to appeals from the superior court shall be deemed to apply to appeals brought pursuant to this section.

SEC. 12. Section 73656.5 is added to the Government Code, to read:

73656.5. For the purposes of this act the El Cajon Judicial District shall have the boundaries established by San Diego County Ordinance No. 4943 (new series) as adopted by the San Diego County Board of Supervisors June 28, 1977.

SEC. 13. Section 73657 is added to the Government Code, to read:

73657. The judges may select one of their members to serve as presiding judge. The presiding judge may refer to the superior court of San Diego County any matter which in other judicial districts would be within the original jurisdiction of the superior court.

The municipal court judges shall perform such services without additional compensation.

SEC. 14. Section 73658 is added to the Government Code, to read:

73658. The Clerk of the San Diego Superior Court shall designate the Clerk of the El Cajon Municipal Court as an assistant county clerk and may designate such other assistant county clerks as may be necessary for the purposes of this act. Such designees shall serve without additional compensation.

SEC. 15. Section 1462.1 of the Penal Code is amended to read:

1462.1. Except as provided in Article 9 (commencing with Section 73640) of Chapter 10 of Title 8 of the Government Code, the jurisdiction of the municipal and justice courts is the same and concurrent.

The amendments to this section made during the 1977 portion of the 1977–78 Regular Session of the Legislature shall have no force or effect on or after January 1, 1983, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 16. Sections 1 and 3 to 14, inclusive, of this act shall remain in effect only until January 1, 1983, and shall have no force or effect and shall be repealed on or after such date, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date. Any cases pending at that time that would otherwise be subject to jurisdiction of the superior court, shall be immediately transferred to such court unless there is a hearing, trial, or other

proceeding in progress. Such case shall be transferred upon the completion of such hearing, trial, or proceeding.

SEC. 17. If any word, phrase, clause, or sentence, in any section amended or added by this act, or any section or provision of this act, or application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other word, phrase, clause, or sentence in any section amended or added by this act, or any other section, provisions or application of this act, which can be given effect without the invalid word, phrase, clause, sentence, section, provision or application and to this end the provisions of this act are declared to be severable.

If all or any portion of this act is found to be unconstitutional, the statute of limitations, on any case filed pursuant to Sections 73650 and 73651 in the El Cajon Municipal Court, is tolled during the period from the time of filing until the time this act, or a portion thereof, is held unconstitutional. The statute of limitations is satisfied by the act of filing an action in the El Cajon Municipal Court, even if the matter is later transferred to the Superior Court. If the constitutionality of this act is questioned in any appellate court of this state, the court hearing the matter shall give such case priority.

SEC. 18. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 1052

An act to amend Section 7031.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Section 7031.5 of the Business and Professions Code is amended to read

7031.5. Each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition or repair of any building or structure shall also require that each applicant for such a permit file as a condition precedent to the issuance of a permit a statement which he has prepared and signed stating that the applicant is licensed under the provisions of this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from the provisions of this chapter, the basis for the alleged

exemption.

Any violation of this section by any applicant for a permit shall be subject to a civil penalty of not more than five hundred dollars ($500).

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to law relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1053

An act to amend Section 22452 of, and to add Section 22452.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 22452 of the Vehicle Code is amended to read:

22452. (a) The provisions of subdivisions (b) and (c) of this section shall apply to the operation of the following vehicles:

Any bus carrying passengers for hire.

Any motortruck transporting employees in addition to those riding in the cab.

Any bus transporting employees.

Any schoolbus, as defined in Section 545, and any school pupil activity bus, as described in subdivision (f) of Section 545, except as otherwise provided in paragraph (4) of subdivision (c).

Any bus transporting minors on any outing organized on a group basis.

Any vehicle carrying explosive substances as a cargo or part of a cargo.

Any tank vehicle as defined in Section 34003 whether loaded or empty.

Any vehicle transporting more than 120 gallons of flammable liquids or liquefied petroleum gas in containers having a capacity of more than 20 gallons as a cargo or major portion of a cargo.

(b) Before traversing a railroad grade crossing, the driver of any vehicle described in subdivision (a) shall stop such vehicle not less than 15 nor more than 50 feet from the nearest rail of the track and while so stopped shall listen, and look in both directions along the track, for any approaching train and for signals indicating the

approach of a train, and shall not proceed until he can do so safely. Upon proceeding, the gears shall not be shifted manually while crossing the tracks.

(c) No stop need be made at any such crossing:

(1) Of railroad tracks running along and upon the roadway within a business or residence district.

(2) Where a traffic officer or an official traffic control signal directs traffic to proceed.

(3) Where an exempt sign was authorized by the Public Utilities Commission prior to January 1, 1978.

(4) Where an official railroad crossing stop exempt sign in compliance with Section 21400 has been placed by the Department of Transportation or a local authority pursuant to Section 22452.5. This paragraph shall not apply with respect to any schoolbus, as defined in Section 545, or to any school pupil activity bus, as described in subdivision (f) of Section 545.

SEC. 2. Section 22452.5 is added to the Vehicle Code, to read:

22452.5. The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may place signs at railroad grade crossings permitting any vehicle described in subdivision (a) of Section 22452 to traverse such crossings without stopping. Such signs shall be placed in accordance with criteria adopted by the Public Utilities Commission. Prior to placing such signs, the Department of Transportation or local authority shall consult with the Department of the California Highway Patrol railroad corporations involved, and the operators involved and shall secure the permission of the Public Utilities Commission if a railroad corporation under the jurisdiction of the Public Utilities Commission is affected. Prior to permitting the placement of such signs, the Public Utilities Commission shall seek the concurrence of the Department of the California Highway Patrol.

CHAPTER 1054

An act to amend Sections 2541.3 and 2541.6 of the Business and Professions Code, and to amend Section 14110.5 of the Welfare and Institutions Code, relating to ophthalmic devices.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. The State Department of Health, the State Board of Optometry and the Division of Allied Health Professions and

Division of Medical Quality of the Board of Medical Quality Assurance shall prepare and adopt quality standards and promulgate regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. Regulations adopted subsequent to those in effect on July 1, 1976, shall become operative July 1, 1978. In promulgating such rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards which are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

No individual or group which deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device which does not meet the minimum standards set by the State Department of Health, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance.

Any violation of the regulations promulgated by the State Department of Health, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance pursuant to this section shall be a misdemeanor.

Any optometrist, ophthalmologist, or dispensing optician who violates the regulations promulgated by the State Department of Health, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance pursuant to this section shall be subject to disciplinary action by his licensing board.

The State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance may send any prescription ophthalmic device to the Department of Health for testing as to whether or not such device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct such testing in its own facilities or may contract with any other facility to conduct such testing.

SEC. 2. Section 2541 6 of the Business and Professions Code is amended to read:

2541.6. Effective January 1, 1977, no prescription ophthalmic device which does not meet the standards promulgated by the State Department of Health, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance under Section 2541.3 shall be purchased with state funds.

SEC. 3. Section 14110.5 of the Welfare and Institutions Code is amended to read:

14110.5. Effective January 1, 1977, no payment for any prescription ophthalmic device shall be made under Medi-Cal if that device does not meet the standards promulgated by the State Department of Health, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance under Section 2541.3 of the Business and Professions Code

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CHAPTER 1055

An act to amend Sections 2601, 2605, 2636.5, 2639, 2651, 2652, 2655.75, 2660, 2680, and 2688 of, to add Sections 2650.1 and 2655.71 to, and to repeal Section 2684 of, the Business and Professions Code, relating to physical therapy.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 2601 of the Business and Professions Code is amended to read:

2601. "Board" as used in this chapter means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

SEC. 1.5. Section 2605 of the Business and Professions Code is amended to read:

2605. It shall be the duty of the examining committee to examine applicants for a license as provided by this chapter, at such places and at such times as shall be designated by the committee in its discretion. It may employ physical therapists licensed pursuant to this chapter to aid it in such examination. The examination shall reasonably test the applicant's knowledge of physical therapy in areas such as: anatomy, pathology, kinesiology, physiology, psychology, physics, electrotherapy, radiation therapy, hydrotherapy, massage, therapeutic exercise, physical therapy as applied to medicine, neurology, orthopedics, surgery, psychiatry, procedures of evaluation, testing, measuring, and technical procedures in the practice of physical therapy, consultation, and program planning.

SEC. 2. Section 2636.5 of the Business and Professions Code is amended to read:

2636.5. (a) An applicant may be issued a license without a written examination if he meets all of the following:

(1) He is at the time of his application licensed or registered as a physical therapist in a state, district, or territory of the United States

having, in the opinion of the examining committee, requirements for licensing or registration equal to or higher than those in California, and he has passed, to the satisfaction of the examining committee, an examination for such licensing or registration that is, in the opinion of the examining committee, comparable to the examination used in this state.

(2) He is a graduate of a school of physical therapy approved by the examining committee.

(3) He files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state five or more years prior to the date of the filing of his application with the board, shall be required to pass an oral examination given by the examining committee.

(c) An applicant who has filed a physical therapy application under this section with the committee may, between the date of receipt of notice that his application is on file and the date of receipt of his license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state.

During this period such an applicant shall identify himself only as a "physical therapist licensee applicant."

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639 all privileges under this section shall automatically cease.

SEC. 3. Section 2639 of the Business and Professions Code is amended to read:

2639. Every graduate of an approved physical therapy school who has filed a physical therapy application with the committee may, between the date of receipt of notice that his application is on file and the date of receipt of his license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state. During this period such an applicant shall identify himself only as a "physical therapist license applicant."

If the person practicing pursuant to this section shall fail to take the next succeeding examination without due cause or fails to pass the examination and receive a license, all privileges under this section shall automatically cease.

SEC. 4. Section 2650.1 is added to the Business and Professions Code, to read:

2650.1. During the period of clinical practice referred to in Section 2650 or in any similar period of observation or related educational experience involving recipients of physical therapy, a person so engaged shall be identified only as a "physical therapy student."

SEC. 5. Section 2651 of the Business and Professions Code is amended to read:

2651. The examining committee shall approve only those schools of physical therapy located in the United States that prove to the satisfaction of the examining committee that they comply with the

minimum physical therapy educational standards promulgated by the examining committee pursuant to this chapter.

SEC. 6. Section 2652 of the Business and Professions Code is amended to read:

2652. All schools whether situated in this state or not, furnishing courses of study meeting the minimum standard required by Sections 2650 and 2651 of the code and the rules of the examining committee adopted pursuant to this chapter shall be approved by the examining committee and shall be entitled to compel such approval, if the same is denied, by action in the Superior Court of the State of California, the procedure and power of the court in which action shall be the same as provided in Section 2174 of this code.

SEC. 7. Section 2655.71 is added to the Business and Professions Code, to read:

2655.71. (a) An applicant may be issued an approval without written examination if he meets all of the following:

(1) He is at the time of his application approved, licensed, or registered as a physical therapist assistant in a state, district, or territory of the United States having, in the opinion of the examining committee, requirements for approval, licensing or registration equal to or higher than those in California, and he has passed, to the satisfaction of the examining committee, an examination for such approval, licensing or registration that is, in the opinion of the examining committee, comparable to the examination used in this state.

(2) He is a graduate of a physical therapist assistant school approved by the examining committee.

(3) He files an application as provided in Section 2655.3.

(b) An applicant who has filed a physical therapist assistant application under this section with the examining committee may, between the date of receipt of notice that his application is on file and the date of receipt of approval, perform as a physical therapist assistant under the direct and immediate supervision of a physical therapist.

During this period such an applicant shall identify himself only as a "physical therapist assistant applicant."

If the applicant under this section does not qualify and receive approval as provided in this section and does not qualify under Section 2655.75 all privileges under this section shall automatically cease.

SEC. 8. Section 2655.75 of the Business and Professions Code is amended to read:

2655.75. Every graduate of an approved physical therapist assistant school who has filed an application for approval as a physical therapist assistant may, between the date of receipt of notice that his application is on file and the date of receipt of approval, assist in the provision of physical therapy under the direct and immediate supervision of a physical therapist.

During this period such an applicant shall identify himself only as

a "physical therapist assistant applicant."

If a person assisting in the provision of physical therapy pursuant to this section fails to take the next succeeding examination without due cause or fails to pass the examination and receive approval, he shall no longer be authorized to perform the functions authorized by this section.

SEC. 9. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings by the examining committee under the Administrative Procedure Act, suspend for not more than 12 months or revoke any license, certificate, or approval issued under this chapter for any of the following causes:

(a) Advertising in violation of Section 17500 of the Business and Professions Code.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(h) Gross negligence in his or her practice as a physical therapist.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(j) The aiding or abetting of any person to violate the provisions of this chapter or any regulations duly adopted under this chapter.

(k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

SEC. 10. Section 2680 of the Business and Professions Code is amended to read:

2680. The examining committee shall keep a record of its proceedings under this chapter, and a register of all persons licensed under it. The register shall show the name of every living licensee, his or her last known place of residence, and the date and number of his or her license as a physical therapist. The examining committee shall, during the month of May of each even-numbered year, compile a list of physical therapists authorized to practice physical therapy in the state. Any interested person is entitled to obtain a copy of that list upon application to the examining committee and payment of such amount as may be fixed by the examining committee, which amount shall not exceed the cost of the list so furnished.

SEC. 11. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees provided in connection with licenses, certificates or approvals for the practice of physical therapy is as follows:

(a) The application fee shall be fixed by the board at not more than fifty dollars ($50). The application fee for an applicant under Section 2635.1 shall be fixed by the board at not more than one hundred dollars ($100).

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The committee may, by regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board at not more than fifty dollars ($50).

(d) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for each application for approval as a physical therapist assistant and such approval which may be granted.

(e) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for renewal of each such approval as a physical therapist assistant.

(f) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for each application for approval to supervise a physical therapist assistant or physical therapist assistants and for any such approval which may be granted.

(g) The examining committee shall renew approval to supervise a physical therapist assistant or physical therapist assistants upon application for such renewal, provided the physical therapist submits evidence that his practice or the physical therapists submit evidence that their practice and the way in which the physical therapist assistant or assistants are being utilized would have led to approval as an initial application under Section 2655.1. A fee to be set by the examining committee of not more than fifty dollars ($50) shall be paid for such renewal.

(h) The delinquency fee is fifteen dollars ($15).

(i) The duplicate license fee is two dollars ($2).

(j) The endorsement fee is five dollars ($5).

SEC. 12. Section 2684 of the Business and Professions Code is repealed.

CHAPTER 1056

An act to add Section 4062 to the Business and Professions Code, relating to pharmacists.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1 Section 4062 is added to the Business and Professions Code, to read:

4062. Notwithstanding Section 2013, or any other provision of law to the contrary, a licensed pharmacist may take a person's blood pressure and may inform the person of the results, render an opinion as to whether the reading is within a high, low or normal range, and may advise the person to consult a physician of the person's choice. Prior to undertaking blood pressure measurement, a pharmacist shall have received training in the standard method of blood pressure measurement. Pharmacists rendering such service shall utilize commonly accepted community standards in rendering opinions and referring patients to physicians Enforcement of this section is vested in the Board of Pharmacy. Any pharmacist who performs such service shall not be in violation of Section 2141.

CHAPTER 1057

An act to amend Sections 11500 and 11513 of, and to add Sections 11501.5 and 11018 to, the Government Code, relating to administrative adjudication

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 11500 of the Government Code is amended to read:

11500. In this chapter unless the context or subject matter otherwise requires:

(a) "Agency" includes the state boards, commissions and officers enumerated in Section 11501 and those to which this chapter is made applicable by law, except that wherever the word "agency" alone is used the power to act may be delegated by the agency and wherever the words "agency itself" are used the power to act shall not be delegated unless the statutes relating to the particular agency authorize the delegation of the agency's power to hear and decide.

(b) "Party" includes the agency, the respondent and any person, other than an officer or an employee of the agency in his official

capacity, who has been allowed to appear or participate in the proceeding.

(c) "Respondent" means any person against whom an accusation is filed pursuant to Section 11503 or against whom a statement of issues is filed pursuant to Section 11504.

(d) "Hearing officer" means a hearing officer qualified under Section 11502.

(e) "Agency member" means any person who is a member of any agency to which this chapter is applicable and includes any person who himself constitutes an agency.

(f) "Adjudicatory hearing" means a state agency hearing which involves the personal or property rights of an individual, the granting or revocation of an individual's license, or the resolution of an issue pertaining to an individual; provided, that the procedures governing such hearing shall include but not be limited to all of the following:

(1) Testimony under oath.

(2) The right to cross-examination and to confront adversary witnesses.

(3) The right to representation.

(4) The issuance of a formal decision.

For purposes of this subdivision, an "adjudicatory hearing" shall not be required to include any informal factfinding or informal investigatory hearing; however, nothing in this subdivision shall be construed to prohibit an agency from providing an interpreter during any such informal hearing.

(g) "Language assistance" means oral interpretation or written translation of a language other than English into English or of English into another language for a party who cannot speak or understand English or who can do so only with difficulty.

SEC. 2. Section 11501.5 is added to the Government Code, to read:

11501.5. (a) The following state agencies shall provide language assistance at adjudicatory hearings pursuant to subdivision (d) of Section 11513:

Agricultural Labor Relations Board
Athletic Commission
Department of Benefit Payments
California Unemployment Insurance Appeals Board
Community Release Board
Board of Cosmetology
Educational Employment Relations Board
Franchise Tax Board
State Department of Health
Department of Housing and Community Development
Department of Industrial Relations
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Workman's Compensation Appeals Board

Department of the Youth Authority
Bureau of Employment Agencies
Board of Barber Examiners
Department of Insurance
State Personnel Board

(b) Nothing in this section shall be construed to prevent any agency other than those listed in subdivision (a) from electing to adopt any of the procedures set forth in subdivision (d), (e), (f), (g), (h), or (i) of Section 11513, except that the State Personnel Board shall determine the general language proficiency of prospective interpreters as described in subdivisions (d) and (e) of Section 11513 unless otherwise provided for as described in subdivision (f) of Section 11513.

SEC. 3. Section 11018 is added to the Government Code, to read.

11018. Every state agency which is authorized by any law to conduct administrative hearings but is not subject to the provisions of Chapter 5 (commencing with Section 11500) of this part shall nonetheless comply with the provisions of subdivision (d) of Section 11513 relative to the furnishing of language assistance at any such hearing.

SEC. 4. Section 11513 of the Government Code is amended to read:

11513. (a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If respondent does not testify in his own behalf he may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(d) The hearing shall be conducted in the English language, except that a party who does not proficiently speak or understand the English language and who requests language assistance shall be provided an interpreter approved by the hearing officer conducting the proceedings. The cost of providing the interpreter shall be paid

by the agency having jurisdiction over the matter if the hearing officer so directs otherwise the party for whom the interpreter is provided.

The hearing officer's decision to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the party in need of the interpreter to pay, except with respect to hearings before the Workman's Compensation Appeals Board or the Division of Industrial Accidents relating to worker's compensation claims. With respect to such hearings, the payment of the costs of providing an interpreter shall be governed by the rules and regulations promulgated by the Workman's Compensation Appeals Board or the Administrative Director of the Division of Industrial Accidents, as appropriate. Such an interpreter shall be selected pursuant to regulations issued by both of the following:

(1) The State Personnel Board which shall establish criteria for an interpreter's proficiency in both English and the language in which the person will testify.

(2) The employing agency which shall establish materials and examinations for an interpreter's understanding of its technical program terminology and procedures.

(e) The State Personnel Board shall compile and publish a list of interpreters it has determined to be proficient in various languages and any interpreter so listed shall be eligible to be examined by each employing agency relating to its technical program terminology and procedures. Any interpreter whose language proficiency and knowledge of such terminology and procedures has been satisfactorily determined by such employing agency shall be deemed to be approved by a hearing officer of such agency.

(f) In the event that interpreters on the approved list cannot be present at the hearing, or if there is no interpreter on the approved list for a particular language, the hearing agency shall have discretionary authority to provisionally qualify and utilize other interpreters.

(g) Every state agency affected by this section shall advise each party of their right to an interpreter at the same time that each party is advised of the hearing date. Each party in need of an interpreter shall also be encouraged to give timely notice to the agency conducting the hearing so that appropriate arrangements can be made.

(h) The rules of confidentiality of the agency, if any, which may apply in an adjudicatory hearing, shall apply to any interpreter in such hearing, whether or not such rules so state.

(i) The interpreter shall not have had any involvement in the issues of the case prior to the hearing.

As used in subdivision (d), the term "hearing officer" shall not be construed to require the use of an Office of Administrative Hearings' hearing officer.

SEC. 5. This act shall become operative on July 1, 1978.

CHAPTER 1058

An act to amend Section 2496 of the Business and Professions Code, relating to the practice of medicine, and making an appropriation therefor.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 2496 of the Business and Professions Code is amended to read:

2496. The amount of fees and refunds is that fixed by the following schedule for any certificate issued by the Board of Osteopathic Examiners. All other fees and refunds for any certificate issued by the Board of Osteopathic Examiners and which are not prescribed in this schedule, are prescribed in Section 2458.

(a) The fee for each applicant for a certificate, unless otherwise provided, shall be set by the board on or before November 1st of each year for the ensuing calendar year at such sum as the board determines necessary to defray the expenses of administering the provisions of this chapter, under the Osteopathic Act, relating to the issuance of certificates to such applicants, which sum, however, shall, until December 31, 1979, not exceed two hundred dollars ($200) nor be less than twenty-five dollars ($25) and after December 31, 1979, shall not exceed fifty dollars ($50) nor be less than twenty-five dollars ($25). In addition, an annual tax and registration fee shall be set by the board on or before November 1st of each year which shall not exceed two hundred dollars ($200) nor be less than ten dollars ($10) until December 31, 1979, and after December 31, 1979 shall not exceed seventy-five dollars ($75) nor be less than ten dollars ($10). If the applicant's credentials are insufficient, or if he does not desire to take the examination or if the applicant fails to receive a certificate, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a reciprocity certificate shall pay an application fee in the sum of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and shall pay a fee which shall be fixed annually by the board, until December 31, 1979, at a sum not in excess of two hundred dollars ($200) nor less than twenty-five dollars ($25) and after December 31, 1979, at a sum not in excess of one hundred dollars ($100) nor less than twenty-five dollars ($25) for the issuance of a certificate.

(c) The fee for failure to pay the annual tax and registration fee is fifty dollars ($50).

(d) The board shall set an annual tax and registration fee in an amount less than that levied pursuant to subdivision (a) which shall

be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the renewal period covered by such annual tax and registration fee. The annual tax and registration fee levied pursuant to this subdivision shall be in effect until December 31, 1979, and after December 31, 1979, shall not be levied.

CHAPTER 1059

An act to amend Sections 69580 and 69591 of the Government Code, relating to superior courts, and making an appropriation therefor.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Section 69580 of the Government Code is amended to read:

69580. In the County of Alameda there shall be 30 judges of the superior court.

SEC. 2. Section 69591 of the Government Code is amended to read:

69591. In the County of Orange there shall be 40 judges of the superior court.

SEC. 3. The sum of two hundred forty thousand dollars ($240,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to Alameda and Orange Counties pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such counties for costs incurred by them pursuant to this act, according to the following schedule:

(1) Alameda County $60,000
(2) Orange County $180,000

CHAPTER 1060

An act to amend Sections 69583 and 69593 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 69583 of the Government Code is amended to read:

69583. In the County of Fresno there shall be 12 judges of the superior court.

SEC. 1.5. Section 69593 of the Government Code is amended to read:

69593. In the County of Sacramento there shall be 22 judges of the superior court.

SEC. 2. The sum of two hundred forty thousand dollars ($240,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to Sacramento and Fresno Counties for costs incurred by such counties pursuant to this act according to the following schedule:

(1) Sacramento County $120,000
(2) Fresno County $120,000

CHAPTER 1061

An act to amend Sections 311.2 and 311.9 of the Penal Code, relating to obscenity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is guilty of a misdemeanor.

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others for commercial consideration, or who offers to distribute, distributes, or exhibits to others for commercial consideration, any obscene matter, knowing that such matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual intercourse, masturbation, sodomy, bestiality, or oral copulation is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or four years, or by a fine not exceeding fifty thousand dollars ($50,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) The provisions of this section with respect to the exhibition of, or the possession with intent to exhibit, any obscene matter shall not apply to a motion picture operator or projectionist who is employed by a person licensed by any city or county and who is acting within the scope of his employment, provided that such operator or projectionist has no financial interest in the place wherein he is so employed.

(d) Except as otherwise provided in subdivision (c), the provisions of subdivision (a) or (b) with respect to the exhibition of, or the possession with intent to exhibit, any obscene matter shall not apply to any person who is employed by a person licensed by any city or county and who is acting within the scope of his employment, provided that such employed person has no financial interest in the place wherein he is so employed and has no control, directly or indirectly, over the exhibition of the obscene matter.

SEC. 2. Section 311.9 of the Penal Code is amended to read:

311.9. (a) Every person who violates Section 311.2 or 311.5, except subdivision (b) of Section 311.2, is punishable by fine of not more than one thousand dollars ($1,000) plus five dollars ($5) for each additional unit of material coming within the provisions of this chapter, which is involved in the offense, not to exceed ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than six months plus one day for each additional unit of material coming within the provisions of this chapter, and which is involved in the offense, such basic maximum and additional days not to exceed 360 days in the county jail, or by both such fine and imprisonment. If such person has previously been convicted of any offense in this chapter, or of a violation of Section 313.1, a violation of Section 311.2 or 311.5, except subdivision (b) of Section 311.2, is punishable as a felony.

(b) Every person who violates Section 311.4 is punishable by fine of not more than two thousand dollars ($2,000) or by imprisonment in the county jail for not more than one year, or by both such fine and such imprisonment. If such person has been previously convicted of a violation of former Section 311.3 or Section 311.4, he is punishable by imprisonment in the state prison.

(c) Every person who violates Section 311.7 is punishable by fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. For a second and subsequent offense he shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. If such person has been twice convicted of a violation of this chapter, a violation of Section 311.7 is punishable as a felony.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the

provisions of this act are severable.

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

The proliferation of child pornography and the use of minors as subjects in child pornography pose a serious threat to the health and welfare of a large number of minors in California which necessitates immediate redress.

CHAPTER 1062

An act to amend Sections 441.16, 441.2, and 441.8 of the Health and Safety Code, relating to health.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

SECTION 1. Section 441.16 of the Health and Safety Code is amended to read:

441.16. (a) The commission where necessary to correctly reflect differences either (1) in size of; or (2) in scope, type, or method of provision of or payment for services rendered by health facilities; or where necessary to avoid unduly burdensome costs for such health facilities in meeting the requirements of this part as a result of such differences; shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems approved pursuant to Section 441.15 for use by health facilities in meeting the requirements of this part if such modifications will not interfere with the purposes established in Section 441.

(b) The commission shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. Such health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner which is consistent with the operating principles of such plans and with generally accepted accounting principles. When health facilities that receive the preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions, and as a group shall submit a consolidated balance sheet, income and expense statement and statement of source and application of funds for such group of health facilities; except, that cost data shall be

reported for each individual institution.

The commission shall adopt comparable modifications to the financial reporting requirements of this part for county hospital systems consistent with the purposes of Section 441.

(c) The commission shall establish approved systems of health facility accounting, uniform reporting, and auditing to create, to the extent feasible, one uniform, comprehensive state system which takes into account the data requirements of all state programs. The commission shall make available information required by other state agencies for programs they administer or in which they have an interest.

This section shall not preclude the state administrative agency responsible for administration of a program from obtaining from health care institutions data not available from the commission which the administrative agency determines is necessary for administration of the program. Administrative agencies shall use the comprehensive system provided for in this section to the maximum extent feasible.

(d) The commission, in consultation with professional organizations shall develop a Health Facility Economic Stabilization Program for establishment of a system to retard inflationary health facility costs and price increases and shall consider, among other factors, the following:

(1) Costs of doing business.

(2) Efficiency of operation.

(3) Occupancy levels.

(4) Type of care offered.

(5) Quality of care offered.

(6) Reasonable rate of return.

(7) Equalization of rates for all patients of a health facility receiving similar services, regardless of source of payment.

(8) Prospective determination of rates to encourage innovative and pluralistic approaches to health care organization. The basis set forth in the American Hospital Association "Statement on Financial Requirements of Health Care Institutions and Services" shall be used in establishing a prospective method of payment for health facility services.

(9) Development of a system which will be designed to protect the public interest and also to provide due process, hearings, and reasonable guarantees protecting the development of a viable health care facilities industry in the state.

(10) Provision for capital, social security requirements for planning and budgets, provision for covering of third party costs which may not be paid by government or other purchasers, provision for education and research cost not directly related to patient care and not otherwise funded, impact of legally imposed cost increases beyond the control of a health facility, provision for efficiency incentives and appropriate utilization, and provision for requirements of health facilities covered by subdivision (b) of this

section.

SEC. 2. Section 441.8 of the Health and Safety Code is amended to read:

441.8. The commission shall appoint an executive director who shall perform the duties delegated to him by the commission, and shall be responsible to it for the accomplishment of such duties. The executive director shall, in accordance with such rules or regulations as the commission may adopt, organize, coordinate, supervise, and direct the operations and affairs of the commission in such a manner as to prevent delay and promote the expeditious and efficient disposition of all matters within the commission's jurisdiction. He shall submit a detailed report of his activities to the commission at each of the regularly scheduled commission meetings provided for pursuant to Section 441.13, and shall prepare such other supplemental and special reports as the commission may from time to time request or which he may deem necessary to adequately inform the members of the commission concerning his activities and experience in the implementation of this part.

The executive director shall receive, in addition to his salary, actual and necessary travel expenses incurred in the discharge of his duties.

CHAPTER 1063

An act relating to graduate fellowship programs, and making an appropriation therefor.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977]

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

SECTION 1. The Legislature finds and declares that:

(a) The state competitive graduate fellowship program prescribed by Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code assists able students from low-income families to pursue graduate study.

(b) The Governor's proposed 1977–78 Budget does not fund the program at the level specified in the Education Code.

(c) Applicants to the program outnumber new fellowship winners at a rate of over 10 to 1.

(d) Federal support of graduate students has been cut in half since 1970.

(e) Minority graduate students borrow at twice the rate of Caucasian students to finance their graduate study.

(f) The impact of affirmative action employment programs is often limited by the disproportionately small numbers of minorities who have conventional academic credentials.

SEC. 2. The sum of five hundred thousand dollars ($500,000) is

hereby appropriated from the General Fund to the Student Aid Commission for the support of the state competitive graduate fellowship program prescribed by Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code in the 1977–78 fiscal year.

CHAPTER 1064

An act to add Chapter 22 (commencing with Section 3800) to Division 1 of the Financial Code, relating to the small business loan programs, and making an appropriation therefor.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

I am reducing the appropriation contained in Section 2 of Assembly Bill No. 881 from $3,000,000 to $1, 00,000 by reducing (a) the State's premium contribution for loans made during the 1977–78 fiscal year from $2,700,000 to $1,000,000 and by reducing (b) the initial expenses of the department in carrying out the duties imposed upon it by this Act from $300,000 to $100,000

The remaining funds are sufficient for the initial phase of the program As the program's success is demonstrated, additional funds will be considered.

With this reduction, I approve Assembly Bill No 881.

EDMUND G BROWN JR., Governor

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

SECTION 1. Chapter 22 (commencing with Section 3800) is added to Division 1 of the Financial Code, to read:

CHAPTER 22. SMALL BUSINESS LOAN PROGRAM

Article 1. Administration

3800. The Legislature finds and declares that:

(1) Expansion of small businesses will have a favorable impact on the California economy by creating jobs and increasing competition in the marketplace; and

(2) There is an unmet need to provide long-term capital to rapidly growing small businesses whose growth exceeds their ability to generate internal earnings to finance that growth; and

(3) Under traditional standards used by banks many well-operated small businesses cannot provide security adequate to qualify for normal bank loans; and

(4) It is desirable to address this problem by creating an efficient, nonbureaucratic form of state assistance to encourage banks to make many such loans which are not now made; and

(5) The modest state expenditure to encourage such loans will be returned to the people of the State of California in the form of

increased tax revenues based on business expansion and reduction in the number of unemployed persons.

In order to accomplish these goals, the Legislature creates the California Small Business Loan Program.

3800.5. The superintendent is responsible for the performance of all duties, the exercise of all powers and jurisdictions, and the assumption and discharge of all responsibilities vested by this chapter in the State Banking Department. He has and may exercise all the powers necessary or convenient for the administration and enforcement of this chapter. He may issue such rules and regulations consistent with law as he may deem necessary or advisable in executing the powers, duties and responsibilities of the department. In achieving the objectives of this chapter, the superintendent shall have the power to examine the loans made pursuant to this chapter at any participating bank to ascertain compliance with this chapter, including rules and regulations issued pursuant to this chapter, and to ascertain whether a bank is exercising reasonable care and diligence in the making and collection of loans made pursuant to this chapter. In carrying out the duties imposed upon him by this chapter, the superintendent shall delegate to the executive director such duties as he deems advisable, and hold the executive director responsible for the performance of such duties.

3801. The executive director shall be appointed by the Governor and shall serve at his pleasure.

3802. In accordance with the provisions of Section 231, the superintendent may employ such other employees as he may need to discharge in a proper manner the duties imposed upon him by this chapter.

3803. The superintendent shall include in the report to the Governor made under Section 256 the following:

(a) The names of all financial institutions certified to participate in the Small Business Loan Program.

(b) The names and locations by county of all borrowers under the program.

(c) The number of employees by county of all borrowers under the program.

(d) The total amount of funds lent under the program by county.

(e) The total amount of funds lent under the program reported separately by categories of uses made by borrowers of the proceeds.

(f) The amount paid out of the fund for loans in default, by lender and by county.

(g) The financial condition of the fund.

(h) An evaluation of the extent to which the results of the program meet the objectives of the program.

(i) Such other information as in the superintendent's judgment may be desirable.

Article 2. Definitions

3810. As used in this chapter, the term:

(a) "Lender participant" means such banks as are approved by the executive director to make loans pursuant to the provisions of this chapter.

(b) "Eligible loan" means a loan to a person under the conditions set forth in this chapter.

(c) "Amount of loss" means an amount equal to the unpaid balance of the principal amount, less any amounts realized by perfecting rights under a security agreement, together with such interest as the executive director shall allow, to a maximum of such interest as may be allowed by regulation. The amount of loss is subject to the limitations contained in subdivision (c) of Section 3851.

(d) "Default" includes only such defaults as have existed for at least 90 days.

(e) "Premium charge" means the percent of the loan, as determined by the lender, which shall be deposited in the Small Business Loan Reserve Fund on loans made pursuant to this chapter.

(f) "Executive director" means the Executive Director of the Small Business Loan Program.

(g) "Fund" means the Small Business Loan Reserve Fund.

Article 3. Small Business Loan Reserve Fund

3820. There is hereby created in the State Treasury the Small Business Loan Reserve Fund.

3821. The Small Business Loan Reserve Fund is created solely for the purpose of receiving state and private money to secure loans made pursuant to this chapter.

3822. All money deposited in the Small Business Loan Reserve Fund is hereby continuously appropriated, without regard to fiscal years, for the purposes of this chapter.

3823. The state shall not be liable or obligated in any way beyond the state money which is allocated in the Small Business Loan Reserve Fund from moneys from the General Fund moneys appropriated for such purposes.

3824. Funds held in the Small Business Loan Reserve Fund which are attributable to the lender participant's portion of the premium charge shall be accounted for on a lender-by-lender basis and shall include matching premiums paid by the borrowers and by the state.

3825. Upon authorization by the executive director, funds in the Small Business Loan Reserve Fund shall be paid to financial institutions by the State Treasurer in warrants drawn by the Controller pursuant to the purposes of this chapter.

3826. Notwithstanding any other provision of law, funds in the Small Business Loan Reserve Fund shall be invested in time certificates of deposit with lender participants in proportion to each lender participant's participation in the small business loan reserve

program.

Such funds shall be offered on a right of first refusal to lender participants. Should a lender participant refuse to receive such funds for investment, the funds shall then be offered other lender participants in proportion to their participation in the small business loan reserve program.

3827. (a) All income from funds invested pursuant to Section 3826 shall be deposited in the Small Business Loan Reserve Fund, and shall be used exclusively for the support of the small business loan reserve program.

(b) Whenever the executive director determines that the income from funds invested pursuant to Section 3826 exceeds amounts necessary to support the small business loan reserve program pursuant to subdivision (a) of this section, he may order any excess funds transferred into the State Banking Fund, but not to exceed the amount transferred from the State Banking Fund to the Small Business Loan Reserve Fund.

(c) On the first day of each year, the superintendent shall submit to the Legislature a report on the expenditure of funds made pursuant to this section.

Article 4. Eligible Loans

3830. The executive director shall certify that those financial institutions whose experience, financial capability, and such other criteria as the superintendent may establish under regulations issued pursuant to this chapter, qualify them to participate in the small business loan reserve program.

3831. Any financial institution may be disqualified from further participation in the small business loan reserve program on a finding, by the superintendent, as specified in the regulations, that such institution has violated any of the provisions of this chapter, or any regulation issued pursuant thereto, or that such institution is insolvent.

3832. A loan made by a lender participant shall be recorded under the provisions of this section if made to a corporation, partnership, sole proprietorship, cooperative, or other association doing business primarily in California, whether nonprofit or organized for profit.

3833. The superintendent shall, by regulation, promulgate eligibility criteria for loans made pursuant to this chapter. Such criteria shall include, but shall not be limited to, the size and types of businesses which shall be eligible to receive loans, and may be based on the Standard Industrial Classification Code. Absence of a classification within the Standard Industrial Classification Code of a type of business shall not preclude it from being established as an eligible business.

3834. (a) No more than 50 percent of the proceeds of any loans made pursuant to this chapter shall be used for the payment of existing loans.

(b) Upon default by the borrower on any loan made pursuant to the provisions of this chapter, the executive director may require from the lender a showing as to how the proceeds of the loan were disbursed.

3835. (a) The maximum amount of interest which may be charged on a loan made pursuant to this chapter shall be the amount determined by the superintendent in accordance with the provisions of subdivision (b) of this section.

(b) The superintendent shall, by regulation, establish the maximum amount of interest or variable interest which may be charged on a loan made pursuant to the provisions of this chapter. Such amount shall be between 5 and 8 percent per annum plus the rate prevailing on the 25th day of the month preceding the date of execution of the contract established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended. At any time during the year, when in the judgment of the superintendent conditions may warrant such action, the superintendent may raise or lower the maximum interest rate for loans made pursuant to this chapter.

3836. (a) The premium charge for each loan made pursuant to the provision of this chapter shall be paid in equal and matching amounts by the borrower, the lender, and the state.

(b) The lender shall determine the premium charge for each loan made pursuant to this chapter. Such charge shall be from 6 percent to 15 percent of the loan, as the lender shall determine.

(c) When a loan is participated in by two or more lender participants, the premium charge shall be a single rate, applicable to the entire loan. The lender's portion of the premium charge shall be apportioned among the lenders in proportion to each lender's participation in the loan.

3837. (a) An application to record a loan made pursuant to the provisions of this chapter shall be made by an eligible lender on such form as the executive director may require. The application shall set forth the amount of the loan, its maturity, interest rate and amortization. In addition, the superintendent may require in a form set forth by him other information relating to job creation.

(b) If, upon application by a lender participant, the executive director finds that the lender has made an eligible loan, he shall cause the loan to be recorded.

3838. (a) The lender shall submit, together with the application pursuant to Section 3837, the following premium charges determined by the lender pursuant to Section 3836: (1) the percent premium charge payable by the lender and (2) the percent premium charge payable by the borrower.

(b) Premium charges collected pursuant to the provisions of this section shall be deposited in the Small Business Loan Reserve Fund.

(c) Upon the recordation of a loan, the executive director shall, from funds appropriated for the purposes of this chapter, pay the

premium charge payable by the state into the Small Business Loan Reserve Fund.

3839. (a) All loans made pursuant to this chapter shall be recorded in a register to be maintained by the superintendent. The registration shall set forth the information contained in the application.

(b) The register shall not be a public record and shall be exempt from the provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code.

3840. At least annually, and more frequently at the direction of the superintendent, a summary of the information contained in the register maintained pursuant to Section 3839 shall be provided each lender participant.

Article 5. Defaults

3850. Upon default by the borrower on any loan made pursuant to the provisions of this chapter, the lender, if a secured party pursuant to Division 9 (commencing with Section 9101) of the Commercial Code, shall take such steps, and avail himself of such rights and remedies as may be provided for in the security agreement and by virtue of Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code except when, in the determination of the superintendent, special circumstances exist which do not warrant taking such action.

3851. (a) Upon default by the borrower on any loan made pursuant to the provisions of this chapter, the lender shall promptly notify the executive director, and the executive director shall, if requested, either at that time, or after further collection efforts, pay to the lender the amount of the loss, as defined in Section 3810, subject to the limitation contained in subdivision (c) of this section, sustained by the lender.

(b) In addition to the amount of loss, the lender may claim five hundred dollars ($500) for collection expenses incurred in the attempted collection of the loan. Such collection expense shall be a charge against that portion of the Small Business Loan Reserve Fund attributable to the lender who made the loan, and shall be subject to the limitation contained in subdivision (c) of this section.

(c) Payments made to a lender pursuant to this section shall not exceed the amount retained in the Small Business Loan Reserve Fund attributable to the lender who made the loan.

3852. Amounts recovered by a lender's collection efforts subsequent to presenting a claim for loss pursuant to this article shall first be paid into the Small Business Loan Reserve Fund to the credit of the lender to reimburse the fund for amounts paid to the lender pursuant to subdivision (a) of Section 3851.

3853. Nothing in this article shall be construed to excuse the lender from exercising reasonable care and diligence in the making and collection of loans under the provisions of this chapter.

If the superintendent, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence required under this section, he shall disqualify that lender for further loans made pursuant to this chapter until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence.

SEC. 2. The sum of three million dollars ($3,000,000) is hereby appropriated to the Small Business Loan Reserve Fund to be used by the State Banking Department as follows:

(a) From the General Fund, for the state's premium contribution for loans made during the 1977-1978 fiscal year, the sum of two million seven hundred thousand dollars ($2,700,000).

(b) From the State Banking Fund, for the initial expenses of the department in carrying out the duties imposed upon it by this act, the sum of three hundred thousand dollars ($300,000).

CHAPTER 1065

An act relating to health.

[Approved by Governor September 24, 1977. Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Of the amount appropriated in Item 241.3 of the Budget Act of 1977 (Ch. 219, Stats. 1977), the sum of one hundred thousand dollars ($100,000) shall be allocated for funding establishment of adult day health centers licensed pursuant to Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code, subject to the conditions specified in this act. The State Department of Health may utilize such funds to make grants to community organizations establishing adult day health centers, as follows:

(a) The amount of any grant or grants respecting a single adult day health center shall not exceed fifteen thousand dollars ($15,000).

(b) Grant moneys shall be used solely for necessary costs of facility rental, remodeling, and minimum staffing which are incurred for operation of the adult day health center during the initial months of service.

(c) Each adult day health center assisted by a grant authorized by this act shall primarily serve the needs of eligible recipients of Medi-Cal benefits who are persons of low income or medically disadvantaged racial or ethnic minorities.

(d) Each grant shall be administered by the State Department of Health under a contract with the grantee pursuant to which the grantee matches the grant funds, on an equal basis.

(e) Each adult day care center assisted pursuant to this act shall employ a full-time director responsible for the day-to-day operations of the center.

(f) The State Department of Health shall evaluate grant applications on the basis of potential effectiveness and impact of the proposal, financial need of the applicant, and demonstrated community support for the proposed adult day care center.

SEC. 2. This act shall not become operative unless Assembly Bill No. 1611 is chaptered, and in such case shall become operative at the same time as Assembly Bill No. 1611 becomes effective.

CHAPTER 1066

An act to add Chapter 3.5 (commencing with Section 1570) to Division 2 of the Health and Safety Code, to amend Sections 14053 and 14132 of, and to add Chapter 8.5 (commencing with Section 14520) to Part 3 of Division 9 of, and to repeal Section 14124.7 of, the Welfare and Institutions Code, relating to health.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977.]

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

SECTION 1. Chapter 3.5 (commencing with Section 1570) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.5. CALIFORNIA ADULT DAY HEALTH CARE ACT

Article 1. General Provisions

1570. This chapter shall be known and may be cited as the California Adult Day Health Care Act.

1570.2. The Legislature hereby finds and declares that there exists a pattern of overutilization of long-term institutional care for the elderly and that there is an urgent need to establish a community-based system of quality adult day health care which will enable older persons with medical or psychiatric impairments to maintain maximum independence. While recognizing that there continues to be a substantial need for facilities providing custodial care, overreliance on such care has proven to be a costly panacea in both financial and human terms, often traumatic, and destructive of continuing family relationships and the capacity for independent living.

It is, therefore, the intent of the Legislature in enacting this chapter and related provisions to provide for the development of policies and programs which will accomplish the following:

(a) Assure that elderly persons are not institutionalized

inappropriately or prematurely.

(b) Provide a viable alternative to institutionalization for those older impaired persons who are capable of living at home with the aid of appropriate health care or rehabilitative and social services.

(c) Establish adult day health centers in the community for such purpose, which will be easily accessible to all participants, including the economically disadvantaged older person, and which will provide outpatient health, rehabilitative, and social services necessary to permit the participants to maintain personal independence and lead meaningful lives.

(d) Include the services of adult day health centers as a benefit under the Medi-Cal Act, which shall be an initial and integral part in the development of an overall plan for a coordinated, comprehensive continuum of optional long-term care services based upon appropriate need.

1570.7. As used in this chapter:

(a) "Adult day health care" means an organized day program of therapeutic, social, and health activities and services provided pursuant to this chapter to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on a short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an option to institutionalization in long-term care facilities, when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his family.

(b) "Adult day health center" means a facility which provides adult day health care, or a distinct portion of a licensed health facility in which such care is provided by a specialized unit.

(c) "Elderly" or "older person" means a person 55 years of age or older, but also includes other persons who are chronically ill or impaired and who would benefit from adult day health care.

(d) "Individualized plan of care" means a plan designed to provide recipients of adult health care with appropriate treatment in accordance with the assessed needs of each individual.

(e) "License" means a basic permit to operate an adult day health center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of this division, "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health services as a separate program in a distinct part of the facility.

(f) "Planning council" or "council" means an adult day health care planning council established pursuant to Section 1572.5.

(g) "State review committee' or "committee" means the Adult Day Health Care Review Committee established pursuant to Section 1572.

1570.9. In the event of conflict between the provisions of this chapter and the provisions of Chapter 1 (commencing with Section

1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) of this division, this chapter shall be deemed controlling. Except as provided in Section 1507, no facility which provides a specialized program of both medical and nonmedical care for the elderly on an outpatient basis shall be licensed as a health facility, clinic, or community care facility under this division, but shall be subject to licensure exclusively in accordance with the provisions of this chapter.

Review of the need and desirability of proposals for adult day health centers shall be governed by the provisions of this chapter and shall not be subject to review under Part 1.5 (commencing with Section 437) of Division 1.

1571. Nothing in this chapter shall require any county to include adult day health care as a part of the services offered by the county hospital or to otherwise establish an adult day health center.

Article 2. Administration

1572. An Adult Day Health Care Review Committee is hereby established in the State Department of Health. The committee shall include a representative of the Department of Aging, the California Commission on Aging, and each appropriate functional division within the state department, as determined by the director (including alternative health systems, social services, Medi-Cal, rates and fees, and licensing and certification). The committee shall assist the director in developing policies and procedures for regulation of adult day health care pursuant to this chapter and respecting reimbursement therefor under the Medi-Cal Act. Additionally, the functions of the committee shall include the following:

(a) The committee shall develop guidelines for adoption by the director setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the director concerning individual proposals for original licensure of proposed adult day health centers. Such review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of such review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. Public hearings on individual proposals for adult

day health centers shall be held by the committee in the county to be served.

1572.5. The board of supervisors of any county may establish for the county an adult day health planning council as provided in this section. Alternatively, two or more adjacent counties may agree to form a single adult day health planning council with jurisdiction in all participating counties. Each council shall be comprised of 15 members appointed by the board of supervisors, or jointly appointed by the boards of supervisors of counties having a single council, as follows:

(a) Eight members of the council shall be persons over 55 years of age who have a demonstrated interest in the special health and social needs of the elderly and who are representative of organizations dedicated primarily to the needs of older persons, including those of low income and racial and ethnic minorities.

(b) A representative of the area agency on aging designated pursuant to Public Law 94-135 or, if none, a county agency responsible for services to senior citizens.

(c) A representative of a county agency responsible for administration of health programs for senior citizens.

(d) A representative of an area health planning agency designated pursuant to Section 437.7 for an area included within the council's jurisdiction.

(e) A representative of the county medical society.

(f) A representative of a publicly funded senior citizen transportation program.

(g) A representative of a health facility or organization of health facilities providing acute or long-term care to the elderly.

If persons meeting the qualifications specified by any subdivision of the section are unavailable or unwilling to serve on the council, the appointing power may apply to the director for an exemption. In such case, the director shall grant an exemption and shall specify such alternative qualifications as will best serve the purposes of this chapter with due regard for local conditions.

1572.7. Notice of intent to form a council shall be published once a week for two successive weeks in every newspaper of general circulation published within the county or counties to be served by the proposed council, at least 10 days prior to public hearing thereon. The notice shall specify the date, time, and place of the hearing.

1572.9. Each planning council approved by the director as meeting the compositional requirements of Section 1572.5 shall adopt an adult day health plan for the county or counties represented by the council. The plan shall be consistent with the state guidelines adopted pursuant to subdivision (a) of Section 1572 and may include the council's recommendations respecting providers initially determined to be suitable for approval as adult day health centers. Such initial recommendations shall not bind the council with respect to future consideration of individual applications for licensure.

Prior to adopting the plan, the council shall hold hearings thereon

at which public comment shall be received and considered. The hearings shall be noticed in advance in the manner prescribed by regulation of the state department. The plan shall become effective when approved by the state review committee.

1573. The director shall submit any application for licensure as an adult day health center within a planning council's jurisdiction to the council for its review and recommendations. Any comments of the council on such an application shall be submitted to the director within 30 days after receipt of the application or copy thereof.

1573.5. The director may, by regulation, provide for such periodic review and update of the state guidelines and county adult day health plans as the director determines are necessary to identify and meet current needs for adult day health care. Revision of the state guidelines and county plans pursuant to this section shall be subject to the same requirements prescribed for initial adoption thereof.

Article 3. Licensure

1575. No person or public agency within this state shall provide adult day health care in this state, without first obtaining a license therefor as provided in this chapter.

1575.2. An adult day health center may be operated only by a city or county or by a nonprofit corporation no part of the net earnings of which inure or may lawfully inure to the benefit of any private shareholder or individual. An applicant for initial licensure as an adult day health center shall file with the state department, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, the following:

(a) Evidence satisfactory to the state department that the applicant, its directors, and officers, if the applicant is a nonprofit corporation, and the person designated to manage the day-to-day affairs of the proposed adult day health center are of reputable and responsible character.

(b) Evidence satisfactory to the state department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto by the state department.

(c) Such other information as may be required by the state department for the proper administration and enforcement of this chapter.

1575.5. Currently with submission of any application under Section 1575.2, the applicant shall apply to the state department for eligibility certification as a provider of adult day health services reimbursable under the Medi-Cal Act (Chapter 7 (commencing with Section 14000), Part 3, Division 9 of the Welfare and Institutions Code). No license shall be issued or renewed for an adult day health center which is not approved as a Medi-Cal provider of adult day health services.

1575.7. The state department, prior to issuing a new license, shall

secure from an appropriate law enforcement agency records of any criminal activity, other than minor traffic violations, of the applicant, its directors, and officers, and any person who will be employed by the applicant to manage the day-to-day affairs of the proposed adult day health center. A past conviction of any crime, especially any crime involving misuse of funds or, in the case of the managing employee or spouse thereof, involving physical abuse shall, in the discretion of the state department, be grounds for denial of the license.

Suspension of the applicant from the Medi-Cal program or prior violations of statutory provisions or regulations relating to licensure of a health facility, community care facility, or clinic shall also be grounds for a denial of licensure, where determined by the state department to indicate a substantial probability that the applicant will not comply with this chapter and regulations adopted hereunder.

No applicant which is licensed as a health facility, community care facility, or clinic may be issued a license for an adult day health center while there exists a subsisting, uncorrected violation of the statutes or regulations relating to such licensure.

1575.9. Each application for a new license or renewal submitted to the state department shall be accompanied by a fee to be determined annually by the director. To the degree possible, and except as hereafter provided, fees shall be established so that applications will produce sufficient revenue to recover the costs of licensure, less reimbursements from federal or other sources. However, the director may by regulation, waive the fee or reduce the fee to a nominal fee of twenty-five dollars ($25) for a renewal license for adult day health centers in which not less than 75 percent of the participants are Medi-Cal beneficiaries. There shall be no increase in the fees charged to other adult day health centers to compensate for such a waiver or reduction of fees.

1576. All applications for a new license shall be submitted to the state review committee and to the planning council for the county in which the adult day health center will be located, which shall review the application as provided in subdivision (c) of Section 1572 and in Section 1573. The director shall approve the application if he determines it is consistent with the county plan, that no substantial basis for denial of the license exists under Section 1575.7, and the applicant has met all the requirements for licensure set forth in this chapter and regulations adopted hereunder. Otherwise the director shall deny issuance of the license.

However, applicants which are funded to provide day care services pursuant to Section 14124.7 of the Welfare and Institutions Code as of December 31, 1977, shall be exempt from the provisions of this section requiring conformity with the county plan as a condition of licensure.

1576.2. Each license issued or renewed pursuant to this chapter shall not be transferable and shall expire 12 months from the date of

its issuance. Application for annual renewal of a license, accompanied by the required fee, shall be filed with the state department not less than 30 days prior to the expiration date. Failure to submit a renewal application prior to such date shall result in expiration of the license.

A license shall not be renewed for an applicant which has had its Medi-Cal certification for adult day health care revoked.

1576.5. Immediately upon the denial of any application for issuance or renewal of a license, the state department shall notify the applicant in writing. Not later than 10 days after the state department mails the notice, the applicant may submit a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The hearing shall be held within 60 calendar days of receipt of the petition. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all the powers granted therein.

Article 4. Standards and Inspection

1580. The state department shall adopt and may from time to time amend or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state. The regulations shall prescribe standards of safety and sanitation for the physical plant of adult day health centers and standards for the quality of adult day health care services, including, but not limited to, staffing with duly qualified personnel. In adopting such regulations, the state department shall take into account the physical and mental capabilities and needs of the persons to be served, and consideration shall be given to flexible application of safety and sanitation standards, if necessary, to be consistent with the legislative intent of establishing adult day health care programs in locations easily accessible to economically disadvantaged older persons. Program standards contained in regulations adopted pursuant to this section shall be those specified in Chapter 8.5 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code.

1580.2. On or before December 1, 1978, the director shall by regulation adopt an equitable and uniform method of evaluating the quality of care and services provided by adult day health centers based upon the following:

(a) Compliance with regulations adopted pursuant to this chapter.

(b) Continued demonstrated community need.

(c) Conformity of the program to individual participants' assessed and reassessed needs and interests with particular attention to visual, auditory, and equipment needs.

(d) Suitability of program changes to the community and participants served.

(e) Compliance with requirements of law pertaining to fire and life and safety.

The evaluation method adopted by the state department shall be published and distributed to all licensed adult day health centers and all other interested persons.

1580.5. Following adoption of the uniform evaluation method pursuant to Section 1580.2, every licensed adult day health center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided, whether initiated by the state department or pursuant to Section 1580.9.

After each inspection and evaluation, the state department shall notify the adult day health center in writing of any deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility. Upon a finding of noncompliance, the state department may also assess a civil penalty not to exceed fifty dollars ($50) per day for each violation continuing beyond the date fixed in the notice for correction. If the violation is not corrected within such time, the civil penalty shall accrue from the date of receipt of the notice by the licensee. If the violation continues beyond the date fixed for correction, the department may also initiate action against the licensee in accordance with the provisions of Article 7 (commencing with Section 1595) of this chapter.

Where a civil penalty is to be assessed pursuant to this section, the notice shall specify the amount thereof and shall be served upon the licensee in a manner prescribed by subdivision (c) of Section 11505 of the Government Code. Any judicial action required to collect a civil penalty assessed pursuant to this section shall be brought by the Attorney General acting on behalf of the state department in the superior court of the county in which the adult day health center is located.

1580.9. Any person may request an inspection of any adult day health center in accordance with the provisions of this article by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statute or regulation. Any such notice shall be in writing, specifying to a reasonable extent the details of the alleged violation, and shall be signed by the complainant. The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection.

Unless the complainant specifically requests otherwise, neither the

substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee or the public shall disclose the name of any person mentioned in the complaint, unless the complainant is a duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this article.

1581. Upon receipt of a complaint pursuant to Section 1580.9, the state department shall make a preliminary review. Unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

No licensee shall discriminate or retaliate in any manner against any person receiving the services of such licensee's adult day health center, or against any employee of such licensee's facility, on the basis or for the reason that such person or employee or any other person has initiated or participated in an inspection pursuant to Section 1580.9 or 1581.

1581.5. Any duly authorized officer, employee, or agent of the state department may, upon presentation of proper identification, enter and inspect any place providing adult day health care at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter or any regulation adopted hereunder.

1582. The state department may provide consulting services upon request to any adult day health center to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by such adult day health center.

1582.5. Reports on the results of each inspection, evaluation, or consultation performed pursuant to this article shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

1583. The director shall publish and make available to interested persons a list of all licensed adult day health centers, the services which each such facility provides, and the relative evaluation rating of each adult day health center as determined pursuant to Section 1580.2.

Article 5. Additional Requirements

1585. The governing board of an adult day health center, having final authority and responsibility for conduct of the center, shall be comprised of four or more persons, at least one-half of whom shall be recipients of the services of the adult day health center, relatives of such recipients, or representatives of community organizations with particular interest in programs for the elderly.

The director shall in individual cases grant exceptions from the

requirements of this section for applicants which are also licensed as a health facility, clinic, or community care facility if (1) the applicant delegates primary responsibility for supervision of its adult day health program to a special board meeting the compositional requirements of this section and (2) such special board reviews and recommends to the governing board of the health facility the budget, personnel, and subcontractors of the adult day health care program.

No member of the governing board or such a special board, nor any member of the immediate family thereof, shall have any direct or indirect interest in any contract for supplying services to the adult day health center.

1585.2. Any operator of a health facility, clinic, or community care facility licensed to provide adult day health care under this chapter shall provide such adult day health care as an independent program which is located in a separate, freestanding facility or in a distinct portion of the health facility, clinic, or community care facility.

1585.5. Adult day health centers shall provide services to each recipient pursuant to an individualized plan of care designed to maintain or restore each recipient's optimal capacity for self-care.

1586. No adult day health center shall refuse to provide adult day care health services to any person on the basis that service to such person will be reimbursed under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

Article 6. Denial, Suspension, and Revocation

1590. The state department may suspend or revoke any license issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this article:

(a) Violation by the licensee of any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations adopted pursuant to this chapter.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of an adult day health facility which is inimical to the health, morals, welfare, or safety of either an individual receiving services from the facility or the people of the State of California.

1590.5. Proceedings for the suspension, revocation, or denial of a license under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by such provisions. Except as provided in Section 1591, in the event of conflict between the provisions of this chapter and such provisions of the Government

Code, the provisions of the Government Code shall prevail.

1591. When the director intends to seek the suspension or revocation of a license, the director shall notify the licensee of the proposed suspension or revocation and at the same time shall serve such person with an accusation. Upon receipt of a notice of defense from the licensee, the director shall set the matter for hearing within five days after receipt of such notice. The director shall make a final determination as to whether to suspend or revoke the license within 30 days after the original hearing has been completed.

1591.5. The withdrawal of an application for a license after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license issued by the state department, or its suspension, forfeiture, or cancellation by order of the state department or by order of a court of law, or its surrender without the written consent of the state department, shall not deprive the state department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

Article 7. Offenses

1595. Any license revoked pursuant to this article may be reinstated pursuant to the provisions of Section 11522 of the Government Code.

1595.2. Any person who negligently, repeatedly, or willfully violates any of the provisions of this chapter, or regulations adopted pursuant to this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment.

1595.5. The director may bring an action to enjoin the violation or threatened violation of Section 1575 in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7, of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.

1596. Any action brought by the director against an adult day health center shall not abate by reason of a sale or other transfer of

ownership of the adult day health center which is a party to the action.

1596.5. The district attorney of every county shall, upon application by the state department or its authorized representative institute and conduct the prosecution of any action for violation within his county of any provisions of this chapter or of regulations adopted pursuant to this chapter.

SEC. 2. Section 14053 of the Welfare and Institutions Code is amended to read:

14053. The term "health care services" means:

1. Inpatient hospital services (other than services in a medical institution for tuberculosis or mental disease except to the extent permitted by federal law) in and by a medical institution or facility operated by, or licensed by, the United States, one of the several states, a political subdivision of a state, the State Department of Health, or exempt from such licensure pursuant to subdivision (c) of Section 1415 of the Health and Safety Code.

2. Outpatient hospital services.

3. Laboratory and X-ray services.

4. Skilled nursing facility (other than services in a medical institution for tuberculosis or mental disease except to the extent permitted by federal law), as defined for the purpose of securing federal approval of a plan under Title XIX of the Federal Social Security Act, to persons 21 years of age or older, or to persons under 21 years of age to the extent permitted by federal law.

5. Physicians' services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing facility, or elsewhere.

6. Medical care, or any other type of remedial care recognized under the laws of this state, furnished by licensed practitioners within the scope of their practice as defined by the laws of this state. Other remedial care shall include, without being limited to, treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan.

7. Home health care services.

8. Private duty nursing services.

9. Outpatient clinic services.

10. Dental services.

11. Physical therapy and related services.

12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select.

13. Other diagnostic, screening, preventive, or rehabilitative services.

14. Intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases except to the extent permitted by federal law) for individuals who are determined, in accordance with Title XIX of the Federal Social Security Act, to be in need of such care.

15. Inpatient hospital services and skilled nursing facility services for any individual 65 years of age or over in an institution for tuberculosis or mental diseases.

16. Inpatient hospital services for any individual under 21 years of age in an institution for mental diseases. Any individual under 21 years of age receiving such inpatient psychiatric hospital services immediately preceding the date on which he attains age 21 may continue to receive such services until he attains age 22.

17. Family planning services.

18. Inpatient intensive rehabilitation hospital services in a general acute care hospital.

19. Adult day health care.

The term "health care services" shall not include, except to the extent permitted by federal law,

a. Any care or services for any individual who is an inmate of an institution (except as a patient in a medical institution); or

b. Any care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis; or

c. Any care or services for any individual who is 21 years of age or over, except as provided in paragraph 16 of this section, and has not attained 65 years of age and who is a patient in an institution for mental diseases.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an

outpatient medical procedure nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.5 (commencing with Section 14520) of this part.

SEC. 3.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this

chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, licensed clinical social work psychotherapy as defined in Section 9049 of the Business and Professions Code, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are

covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.5 (commencing with Section 14520 of this part.

SEC. 3.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.5 (commencing with Section 14520) of this part.

SEC. 3.9. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, licensed clinical social work psychotherapy as defined in Section 9049 of the Business and Professions Code, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.5 (commencing with Section 14520) of this part.

SEC. 4. Section 14124.7 of the Welfare and Institutions Code is repealed.

SEC. 5. Chapter 8.5 (commencing with Section 14520) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 8.5. ADULT DAY HEALTH CARE PROGRAMS

Article 1. General Provisions

14520. This chapter shall be known and may be cited as the Adult Day Health Medi-Cal Law.

14521. It is the intent of the Legislature in enacting this chapter to establish adult day health care as a Medi-Cal benefit and allow persons eligible to receive the benefits under Chapter 7 (commencing with Section 14000) of this part, and who have medical and psychiatric impairments, to receive adult day health care services. It is the intent of the Legislature in authorizing such a Medi-Cal benefit to establish a community-based system of quality day health services which will (1) insure that older persons not be institutionalized prematurely and inappropriately, (2) provide appropriate health and social services designed to maintain older persons in their own homes, and (3) establish adult day health care centers in locations easily accessible to the economically disadvantaged older person.

14522. Unless the context otherwise requires, the definitions

contained in Part 7 (commencing with Section 14000) of this part and in Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code shall govern the construction of this chapter.

Article 2. Eligibility, Participation, and Discharge

14525. Any older person eligible for benefits under Chapter 7 (commencing with Section 14000) of this part shall be eligible for adult day health care services if such person meets any one of the following criteria:

(a) The person is at the point of discharge from a general acute care hospital or other acute care facility and, except for the availability of an adult day health care program, would be placed in a long-term care institution.

(b) The person is residing in the community, but is in danger of institutionalization, and his or her disabilities and level of functioning are such that without intervention such placement would likely occur.

(c) The person is a resident of a skilled nursing facility or other long-term care facility, but the department determines that institutional placement is unnecessary and the person is an appropriate candidate for adult day health care.

14526. Participation in an adult day health care program shall require authorization by the department. The authorization request shall be initiated by the provider and shall include the results of the assessment screening conducted by the provider's multidisciplinary team and the resulting individualized plan of care. Participation shall begin upon application by the prospective participant or upon referral from community or health agencies, physician, hospital, family, or friends of a potential participant.

The adult day health care provider shall provide services only to those participants living within its service area, as determined by the department consistent with the county plan adopted pursuant to Section 1572.9 of the Health and Safety Code; provided, that, under special circumstances in which an adult day health care provider meets a special need or affinity of a particular individual residing outside the provider's service area, the provider may accept such individual as a participant, conditioned upon limiting reimbursable transportation costs to such costs which are incurred solely within the provider's service area.

14527. Participation in an adult day health care program shall be voluntary. The participant may end the participation at any time. However, an adult day health center shall not otherwise terminate the provision of adult day health services to any participant unless approved by the state department.

No provider may employ, or contract for, persons specifically for the sole purpose of solicitation of eligible participants. A provider shall not use false advertising or false statements to induce participants. No solicitation of participants shall include the granting

or offering of any monetary or other valuable consideration for participation.

All informational material for potential participants prepared by the provider shall have the prior approval of the department.

14528. Before acceptance into the program, all adult day health providers shall conduct a multidisciplinary assessment directed towards ascertaining the individual's pathological diagnosis, physical disability, functional ability, psychological status, and social and physical environment.

14529. The multidisciplinary health team conducting an assessment pursuant to Section 14528 shall consist of at least the individual's personal physician or a staff physician, or both, a nurse, social worker, occupational therapist, and physical therapist. The assessment team shall:

(a) Determine the medical, psychosocial, and functional status of each participant.

(b) Develop an individualized plan of care, including goals, objectives, and services designed to meet the needs of the person, which shall be signed by each member of the disciplinary team, except that the signature of only one physician member of the team shall be required.

(c) At least quarterly reassess the participant's individualized plan of care and make any necessary adjustments to the plan.

14530. Individualized plans of care and individual monthly service reports shall be submitted to the department.

Each provider shall supply a written statement to the participant explaining what services will be provided and specifying the scheduled days of attendance. Such statement, which shall be known as the participation agreement, shall be signed by the participant. The provider shall transmit a copy of the participation agreement to the department.

Article 3. Services and Standards

14550. Adult day health centers shall offer, and shall provide directly on the premises, at least the following services:

(a) Rehabilitation services, including the following:

(1) Occupational therapy as an adjunct to treatment designed to restore impaired function of patients with physical or mental limitations.

(2) Physical therapy appropriate to meet the needs of the patient.

(3) Speech therapy for participants with speech or language disorders.

(b) Medical services supervised by either the participant's personal physician or a staff physician, or both, which emphasize prevention treatment, rehabilitation, and continuity of care and also provide for maintenance of adequate medical records. To the extent otherwise permitted by law, medical services may be provided by registered nurses practicing under standardized procedures, or, if

the Board of Registered Nursing defines standards for nurse practitioners, by nurses meeting such standards.

(c) Nursing services, including the following:

(1) Nursing services rendered by a professional nursing staff, who periodically evaluate the particular nursing needs of each participant and provide the care and treatment that is indicated.

(2) Self-care services oriented toward activities of daily living and personal hygiene, such as toileting, bathing, and grooming.

(d) Nutrition services, including the following:

(1) The program shall provide a minimum of one meal per day which is of suitable quality and quantity as to supply at least one-third of the daily nutritional requirement. Additionally, special diets and supplemental feedings shall be available if indicated.

(2) Dietary counseling and nutrition education for the participant and his family shall be a required adjunct of such service.

(e) Psychiatric or psychological services which include consultation and individual assessment by a psychiatrist, clinical psychologist, or a psychiatric social worker, when indicated, and group or individual treatment for persons with diagnosed mental, emotional, or behavioral problems.

(f) Social work services to participants and their families to help with personal, family, and adjustment problems that interfere with the effectiveness of treatment.

(g) Planned recreational and social activities suited to the needs of the participants and designed to encourage physical exercise, to prevent deterioration, and to stimulate social interaction.

(h) Transportation service for participants, when needed, to and from their homes utilizing specially equipped vehicles to accommodate participants with severe physical disabilities that limit their mobility.

(i) Written procedures for dealing with emergency situations. Such written procedures shall include the name and telephone number of a physician on call, written arrangements with a nearby hospital for inpatient and emergency room service, and provision for ambulance transportation.

14551. The following additional services may also be provided:

(a) Podiatric services provided or arranged for, or under direction of, the supervising physician.

(b) Optometric screening and advice for low-vision cases by a licensed ophthalmologist or optometrist.

(c) Dental screening for the purpose of apprising the participant of the necessity of regular or emergency dental care.

(d) Such other services within the concept and objectives of adult day health care as may be approved by the State Department of Health.

14552. In order to obtain certification as a provider of adult day health care under the provisions of this chapter and Chapter 7 (commencing with Section 14000) of this part, the following standards shall be met:

(a) The provider shall be licensed as an adult day health center pursuant to Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

(b) The provider shall comply with requirements of this chapter regarding program and scope of services.

(c) The provider shall have appropriate licensed personnel.

(d) The provider shall employ allied health and social personnel for furnishing of services consistent with good medical practice

(e) A provider serving a substantial number of participants of a particular racial group, or whose primary language is other than English, shall employ staff of that particular racial or linguistic group at all times.

(f) A provider shall have organizational and administrative capacity to provide services under provisions of this chapter.

14553. An adult day health care provider shall establish written policies and procedures, which shall have prior approval of the department, for continuously reviewing the quality of care, performance of all personnel, the utilization of services and facilities, and costs. Information derived from such review shall be made available to the department.

14554. The adult day health care provider shall maintain a complete standard medical record for each participant, including records of treatment rendered by a subcontractor, according to specifications established by the department.

14555. Each adult day health care provider shall establish a grievance procedure under which participants may submit their grievances. Such procedure shall be approved by the department prior to the approval of the certification. The department shall establish standards for such procedures to insure adequate consideration and rectification of participant grievances. A provider shall make written findings of fact in the case of each grievance processed, a copy of which shall be transmitted to the participant. If the participant has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 of this division shall be available to resolve all grievances regarding care and administration by the adult day health care provider. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the adult day health care provider.

Article 4. Administration

14570. The department shall adopt all necessary rules and regulations providing for quality of care and payment for services rendered under this chapter pursuant to Chapter 7 (commencing with Section 14000) of this part.

The Director of Health shall establish a distinct organizational entity within the department which shall have primary responsibility for the Adult Day Health Care Medi-Cal program.

Such entity shall coordinate and direct all departmental activities required by this chapter.

14571. The department shall establish comprehensive reimbursement rates for adult day health services and subject to reasonable cost. "Reasonable cost," as used in this section, means the level of costs generally incurred in the provision of the same or similar services in the area on an institutional basis.

Payment shall be for services provided during the preceding month in accordance with an approved individualized plan of care. Billing shall be submitted directly to the department. Additionally, the department shall establish a reasonable rate of reimbursement for the initial assessment.

14572. No Medi-Cal reimbursement shall be made for a service rendered by an adult day health care provider which does not have a license as an adult day health care center or which does not have currently effective Medi-Cal certification pursuant to this chapter.

14573. Medi-Cal certification for adult day health care providers and any renewal of such certification shall expire 12 months from the date of issuance. Before certification renewal the provider shall submit with the application therefor a report according to department specifications which includes an analysis of income and expenditures, continued demonstrated community need, services, participant statistics and outcome, and adherence to policies and procedures. Prior to approving renewal of Medi-Cal certification, the department shall conduct an onsite financial, medical, and management audit concurrent with the licensing review. Such review shall be conducted by a team of persons with appropriate technical skills.

Where the director determines that the public interests would be served thereby, a public hearing may be held on any such renewal application. The findings of the departmental program and licensing review and the provider's annual evaluation report shall be presented at the hearing.

14574. The director shall terminate the Medi-Cal certification of any adult day health care provider at any time if he finds the provider is not in compliance with standards prescribed by this chapter or regulations adopted pursuant to this chapter, or for other good cause. The director shall give reasonable notice of his intention to terminate the certification to the provider and participants in the plan. The notice shall state the effective date of, and the reason for, the termination.

14575. Each adult day health care provider shall maintain financial records and shall submit to the department an annual audit performed by an independent certified public accountant as part of the provider's annual report. All certified financial statements shall be filed with the department as soon as practical after the end of the fiscal year and in any event, within a period not to exceed 90 days thereafter. Such financial statements shall be public records. The department shall have complete authority and responsibility for

establishing uniform accounting and financial reporting procedures for adult day health care providers.

14576. Each adult day health care provider shall furnish to the department such additional information and reports as the department may find necessary in performing its functions under this chapter. Such information and reports shall include, but not be limited to, statistical information regarding utilization of services, individual treatment plans and individual service reports, costs of health care, and administration as the department may require.

14577. All subcontracts for services reimbursable under this chapter shall be entered into pursuant to regulations of the department. All subcontracts shall be in writing, and a copy shall be transmitted to the department for approval prior to taking effect. Each subcontract submitted by the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the adult day health care provider. However, this section shall not apply to employment contracts of salaried employees of an adult day health care provider.

All subcontracts to provide health care benefits, including emergency services, shall include specification of the time and days reserved for services to be provided to participants and specification of the service to be provided. All subcontracts to provide any of the basic services specified in Section 14550 through subcontractors, shall meet all of the qualifications required by, or pursuant to, this chapter as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records pertaining to the goods or services furnished under the terms of the subcontract available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in the state as the department shall designate. Subcontracts between an adult day health care provider and a subcontractor shall be public records and shall be kept on file with the State Department of Health. The names of the officers and stockholders of the subcontractor shall also be kept on file as public records by the State Department of Health.

Article 5. Conflict of Interest

14585. For purposes of this article, "state officer or employee" means a Member of Congress representing the State of California; a Member of the Legislature; a secretary of a state agency and those members of the secretary's staff who hold policymaking positions; those members of the Governor's staff who hold policymaking positions; an administrative aide or committee consultant of the Legislature; the appointive or civil service employee of the highest class or grade in each department, system, program, section, or other

administrative subdivision of the State Department of Health, as defined in regulations adopted by the department; any other employee in the State Department of Health who has any responsibility for the negotiation and development, or management of Medi-Cal contracts of an adult day health care center certified under the provisions of this chapter. The director shall adopt regulations further delineating the class of employees covered by this section.

14586. No Medi-Cal certification for an adult day health center shall be approved or renewed pursuant to this chapter if a state officer or employee, or the spouse or a minor child of a state officer or employee, is a member of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officer, a shareholder in the case of a corporation, or a partner in the case of a partnership, in any entity contracting with an adult day health center to provide services reimbursable pursuant to this chapter.

14587. No Medi-Cal certification for an adult day health center shall be approved or renewed if any state officer or employee has a direct financial interest in such a subcontractor.

For the purposes of this section, "direct financial interest" means the ownership of common stock, preferred stock, warrants, options, partnership interests, and debt instruments if convertible to equity investments in a subcontractor specified in this section. A convertible debt includes bonds, notes, debentures, and mortages. As used in this section, "direct financial interest" also includes such financial interest of a spouse or a minor child of a state officer or employee in any business entity or in real property held for income or gain.

14588. No Medi-Cal certification for an adult day health center shall be approved or renewed if a state officer or employee, or the spouse or a minor child of a state officer or employee, provides legal solicitation or management services to the adult day health center or shares in the income or any remuneration derived from the providing of legal or management services to an adult day health center.

SEC. 5.5. (a) It is the intent of the Legislature that if this bill and Assembly Bill No. 438 or Senate Bill No. 35, or both, are chaptered and become effective January 1, 1978, and each of the bills amends Section 14132 of the Welfare and Institutions Code, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill No. 438 are both chaptered and become effective January 1, 1978, both bills amend Section 14132 of the Welfare and Institutions Code, but Senate Bill No. 35 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 438, then Section 14132 of the Welfare and Institutions Code, as amended by Section 3 of this act shall remain operative only until April 1, 1978, and on April 1, 1978,

Section 14132 of the Welfare and Institutions Code as amended by Section 3 of this act shall be further amended in the form set forth in Section 3.5 of this act to incorporate the changes in Section 14132 proposed by Assembly Bill No. 438. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill No. 438 are both chaptered and become effective January 1, 1978, both bills amend Section 14132, this bill is chaptered after Assembly Bill No. 438, and Senate Bill No. 35 is not chaptered or as chaptered does not amend that section, in which case Section 3.5 of this act shall become operative on April 1, 1978.

(2) If this bill and Senate Bill No. 35 are both chaptered and become effective January 1, 1978, both bills amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 438 is not chaptered, is chaptered after this bill, or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 35, the amendments proposed by both this bill and Senate Bill No. 35 shall be given effect and incorporated in Section 14132 in the form set forth in Section 3.7 of this act. Therefore, if this bill and Senate Bill No. 35 are both chaptered and become effective January 1, 1978, both bills amend Section 14132, this bill is chaptered after Senate Bill No. 35, and Assembly Bill No. 438 is not chaptered, is chaptered after this bill, or as chaptered does not amend that section, Section 3.7 shall be operative and Sections 3, 3.5, and 3.9 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 438 and Senate Bill No. 35 are all chaptered and become effective January 1, 1978, all three bills amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 438 and Senate Bill No. 35, Section 14132 of the Welfare and Institutions Code shall be amended in the form set forth in Section 3.7 of this act to incorporate the changes proposed by both this bill and Senate Bill No. 35. However, in such case, Section 14132, as amended by Section 3.7 of this act shall remain operative only until April 1, 1978, and on April 1, 1978, Section 14132 of the Welfare and Institutions Code as amended by Section 3.7 of this act shall be further amended in the form set forth in Section 3.9 of this act to incorporate the changes in Section 14132 proposed by Assembly Bill No. 438. Therefore, Section 3.9 of this act shall become operative only if this bill and Assembly Bill No. 438 and Senate Bill No. 35 are all chaptered and become effective January 1, 1978, all three bills amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 438 and Senate Bill No. 35, in which case Section 3.9 of this act shall become operative on April 1, 1978.

(b) If neither Assembly Bill No. 438 nor Senate Bill No. 35 is chaptered and becomes effective January 1, 1978, or if neither of such bills amends Section 14132 of the Welfare and Institutions Code, and except as otherwise provided by subdivision (a) of this section, Section 14132 shall be amended in the form set forth in Section 3 of this act.

SEC. 6. The State Department of Health shall submit to the Legislature and the Governor an initial report by March 1, 1980, and a second report by March 1, 1982, on the administration of Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code and Chapter 8.5 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code. The initial report shall include a description of the progress made in implementing the program, including the number of centers established, characteristics and number of persons served, costs of the services and administration, and recommendations for administrative and legislative changes.

The second report shall include an evaluation of the program, which shall measure the effectiveness and efficiency of the adult day health care program. The evaluation shall include the following:

(a) Number of the persons diverted from long-term institutional care through the adult day health care program.

(b) The costs of the adult day health care program as compared to costs for long-term institutional care.

(c) A description of the social, health, and functional characteristics of the persons served, the range of services provided them and the outcome of the services.

(d) Recommendations for legislative and administrative changes.

SEC. 7. Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code and Chapter 8.5 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code, as added by this act, shall remain in effect only until January 1, 1983, and on such date are repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date. In this regard, it is the intent of the Legislature to evaluate the second report submitted pursuant to Section 6 of this act to determine whether adult day health care programs conducted under this act have had sufficient positive impact to warrant their continuation.

SEC. 8. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC. 9. The sum of one million dollars ($1,000,000) is hereby allocated from the amount appropriated in Item 241.3 of the Budget Act of 1977 (Ch. 219, Stats. 1977) to match federal funds for adult day health Medi-Cal services pursuant to this act and for the costs of administration thereof; provided, however that so much of such moneys as may be necessary shall be transferred to Item 248 of the Budget Act of 1977 to pay for adult day health Medi-Cal services authorized by this act.

CHAPTER 1067

An act to amend Section 4 of Chapter 1130 of the Statutes of 1975, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1977 Filed with Secretary of State September 24, 1977]

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

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

(a) It is the policy of the state to encourage rail passenger service as an alternative to the automobile because of such service's high fuel efficiency and in order to relieve heavily traveled highways.

(b) In recognition of these benefits of rail passenger service, the state should assign high priority to the aid of those projects that will provide for the restoration and use of rail passenger service corridors whenever there is strong local and community support for such projects.

(c) The restoration of the Del Monte Express, providing rail passenger service between the City of Monterey and the City and County of San Francisco, and the Suntan Special, providing such service between the Santa Clara Valley and the beach area in Santa Cruz County via Watsonville, would offer a feasible alternative to automotive travel on some of the most heavily traveled, substandard, and hazardous highway corridors of the state and would be of substantial benefit to the residents of the areas that adjoin those corridors.

(d) While the counties to be served by the Del Monte Express and the Suntan Special will contribute to their restoration to the extent possible, the large initial capital costs involved necessitate the provision of state funds in an amount in excess of that authorized by law. The amendments made by Section 2 of this act will authorize the allocation of such additional funds.

SEC. 2. Section 4 of Chapter 1130 of the Statutes of 1975 is amended to read:

Sec. 4. (a) For the 1976–77 to 1978–79 fiscal years, inclusive, three million dollars ($3,000,000) shall be allocated by the Secretary of the Business and Transportation Agency to the Department of Transportation for the purpose of undertaking a program of projects for the extension of intercity rail passenger services provided by the National Rail Passenger Corporation (Amtrak) under Section 403 (b) of the Rail Passenger Service Act of 1970 (45 U.S.C., Sec. 563 (b)) or the upgrading of other commuter rail services.

(b) Prior to commencing any such project, the department shall enter into an agreement with any city or county that desires to participate in the project. The agreement shall set forth the

operational and financial terms and conditions under which the project shall be carried out. The funding provided by any participating city or county may consist of funds derived from any source, including funds made available pursuant to Section 99233.9 and subdivision (b) of Section 99400 of the Public Utilities Code.

SEC. 3. Section 4 of Chapter 1130 of the Statutes of 1975, as amended by Section 2 of this act, is amended to read:

Sec. 4. (a) For the 1976–77 to 1978–79 fiscal years, inclusive, three million dollars ($3,000,000) shall be allocated by the Secretary of the Business and Transportation Agency to the Department of Transportation for the purpose of undertaking a program of projects for the extension of intercity rail passenger services provided by the National Rail Passenger Corporation (Amtrak) under Section 403(b) of the Rail Passenger Service Act of 1970 (45 U.S.C., Sec. 563(b)) or the upgrading of other commuter rail services or to provide feeder services to such rail services.

(b) Prior to commencing any such project, the department shall enter into an agreement with any city or county that desires to participate in the project. The agreement shall set forth the operational and financial terms and conditions under which the project shall be carried out. The funding provided by any participating city or county may consist of funds derived from any source, including funds made available pursuant to Section 99233.9 and subdivision (b) of Section 99400 of the Public Utilities Code.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 827 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 4 of Chapter 1130 of the Statutes of 1975, and this bill is chaptered after Senate Bill No. 827, that Section 4 of Chapter 1130 of the Statutes of 1975, as amended by Section 2 of this act shall remain operative only until the effective date of Senate Bill No. 827, and that on the effective date of Senate Bill No. 827 Section 4 of Chapter 1130 of the Statutes of 1975 as amended by Section 2 of this act be further amended in the form set forth in Section 3 of this act to incorporate the changes in Section 4 of Chapter 1130 of the Statutes of 1975 proposed by Senate Bill No. 827. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill No. 827 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 4 of Chapter 1130 of the Statutes of 1975, and this bill is chaptered after Senate Bill No. 827, in which case Section 3 of this act shall become operative on the effective date of Senate Bill No. 827.

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

This act provides statutory authority that is indispensible to the prompt implementation of plans for the restoration of urgently needed rail passenger service. Therefore, it is necessary that this act take effect immediately.

CHAPTER 1068

An act to amend Sections 73731 and 73733 of, to amend and renumber Sections 73737, 73739, 73740, 73742, 73743, 73744, 73745, and 73746 of, to repeal and add Sections 73734 and 73741 to, and to repeal Sections 73735, 73736, and 73738 of, the Government Code, relating to courts.

[Became law without Governor's signature September 25, 1977
Filed with Secretary of State September 26, 1977.]

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

SECTION 1. Section 73731 of the Government Code is amended to read:

73731. (a) There shall be four judges.

(b) The persons appointed to or succeeding to the three judgeships created January 1, 1976, and the one judgeship created January 10, 1977, shall serve until their successors are elected at the November, 1978 general election and qualify to take office for full terms in January, 1979.

SEC. 2. Section 73733 of the Government Code is amended to read:

73733. There shall be one clerk of the court known as the clerk-administrator who shall be appointed by the judges of the municipal court and who shall hold office at their pleasure. He shall receive a monthly salary at a rate specified in range 71.

SEC. 3. Section 73734 of the Government Code is repealed.

SEC. 4. Section 73734 is added to the Government Code, to read:

73734. Notwithstanding Section 72400, the judges may appoint a part-time traffic referee to serve at the pleasure of the court. The salary of any such officer shall be that as set forth in Section 72404 except that such compensation shall be prorated as the number of hours actually served relates to a 40-hour workweek. Notwithstanding Section 72403, the part-time traffic referee shall be eligible for membership in the county's retirement system subject to the same rules which apply to part-time county employees.

SEC. 5. Section 73735 of the Government Code is repealed.

SEC. 6. Section 73736 of the Government Code is repealed.

SEC. 7. Section 73737 of the Government Code is amended and renumbered to read:

73735. The sheriff and his deputies shall act as ex officio marshal and deputy marshals of the court.

SEC. 8. Section 73738 of the Government Code is repealed.

SEC. 9. Section 73739 of the Government Code is amended and renumbered to read:

73736. The clerk-administrator, may appoint:

(a) One chief deputy municipal court clerk who shall receive a monthly salary at a rate specified in range 57.

(b) Four municipal court clerks III, each of whom shall receive a

monthly salary at a rate specified in range 49.

(c) Eleven municipal court clerks II, each of whom shall receive a monthly salary at a rate specified in range 44.

(d) Eleven municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 41.

(e) One legal stenographer, who shall receive a monthly salary rate specified in range 45.

(f) One interpreter, who shall receive a monthly salary at a rate specified in range 47.

SEC. 10. Section 73740 of the Government Code is amended and renumbered to read:

73737. The judges of the municipal court shall appoint a jury commissioner of the municipal court who shall hold office at their pleasure and who shall exercise the power and duties provided for in Section 72191. The jury commissioner shall receive a monthly salary at a rate specified in range 55. The jury commissioner, may appoint two assistant jury commissioners, each of whom shall receive a monthly salary at a rate specified in range 49.

Notwithstanding the above provisions of this section, the board of supervisors may direct the superior court jury commissioner to serve as jury commissioner for municipal court pursuant to Section 204a of the Code of Civil Procedure and transfer or terminate the positions provided for in this section, provided that such direction and transfer or termination shall remain in effect only until January 1, 1980, unless the Legislature ratifies such direction by amendment of this section.

SEC. 11. Section 73741 of the Government Code is repealed.

SEC. 12. Section 73741 is added to the Government Code, to read:

73741. The position of clerk-administrator shall be allocated to a salary level which is 14 ranges on the standard schedule above the salary range occupied by the chief deputy clerk. The salary level of clerk-administrator may be increased beyond the level herein provided by the joint action of a majority of judges of the municipal court and the board of supervisors, provided, such increases shall be effective the same date as the effective date of the action applicable to the respective and comparable county classifications, but shall remain in effect only until January 1st of the second year following the year in which such an adjustment in salary is made, unless subsequently ratified by the Legislature. The position of chief deputy clerk shall be allocated at a salary level which is eight salary ranges on the regular schedule above that of municipal court clerk III.

Whenever the salary of chief deputy clerk is adjusted by the board, the salary range of clerk-administrator shall be adjusted to maintain the range separation as specified. Whenever the salary of municipal court clerk III is adjusted by the board of supervisors, the salary range of chief deputy clerk shall be adjusted to maintain the range number separation as specified. Except as hereinafter provided, any salary adjustment made pursuant to this section shall be effective the same date as the effective date of the action applicable to the respective county classification and shall remain in effect only until January 1

of the second year following the year in which such an adjustment in salary is made, unless subsequently ratified by the Legislature. The effective date of initial salary adjustments for the positions of clerk-administrator and chief deputy clerk shall be January 1, 1978.

SEC. 13. Section 73742 of the Government Code is amended and renumbered to read:

73738. Whenever reference to a numbered salary range is made in any section of this article, the schedule of monthly salaries found in the standard salary schedule in the salary resolution of the County of Imperial in effect on July 19, 1977, shall apply.

SEC. 14. Section 73743 of the Government Code is amended and renumbered to read:

73739. All employees of the Imperial County Municipal Court shall be entitled to the same provisions with respect to retirement, vacations and other benefits allowed to employees of the county.

SEC. 15. Section 73744 of the Government Code is amended and renumbered to read:

73740. Certain positions in the municipal court are deemed to be comparable in job and salary level to certain positions in the classified service of Imperial County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto.

Court Classification	County Classification
Municipal court clerk III	Superior court clerk III
Municipal court clerk II	Superior court clerk II
Municipal court clerk I	Superior court clerk I
Legal stenographer I	Legal stenographer I
Interpreter	Interpreter

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Any salary adjustment made pursuant to this section shall be effective the same date as the effective date of the action applicable to the respective and comparable county classifications, but shall remain in effect only until January 1 of the second year following the year in which such an adjustment in salary is made, unless subsequently ratified by the Legislature.

SEC. 16. Section 73745 of the Government Code is amended and renumbered to read:

73742. The presiding judge may appoint as many regular official reporters and as many official reporters pro tempore as the business of the court requires. The reporters shall hold office during the pleasure of the presiding judge.

SEC. 17. Section 73746 of the Government Code is amended and renumbered to read:

73743. The regular official reporters shall receive the salary compensation and other benefits as are paid regular official reporters of the Superior Court of Imperial County pursuant to the provisions

of Section 70045.5. Each official reporter shall perform the duties required of him by law. Reporters pro tempore shall be paid a per diem and other fees and expenses in the same manner as paid to reporters pro tempore of the Superior Court of Imperial County pursuant to the provisions of Section 70045.5.

Fees for reporting and for transcription of testimony and proceedings in the court shall be paid by the parties to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of reporting and transcription fees out of the county treasury including fees for reporting and for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69952, inclusive, such fees shall, upon order of the court, be paid from the county treasury.

SEC. 18. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 1069

An act to amend Section 20017 79 of, and to add Sections 20017.771 20803.9, and 22013.9 to, the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Became law without Governor's signature September 25, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 20017.771 is added to the Government Code, to read:

20017.771. "State safety member" shall also include officers and employees of the Adult Authority, Department of Corrections, and the Department of the Youth Authority employed in positions with the following classifications:

Supervisor of correctional education programs
Supervisor of academic instruction (correctional facility)
Supervisor of vocational instruction
Supervisor of commercial diver training
Teacher (arts and crafts) (correctional facility)
Teacher (business education) (correctional facility)
Teacher (elementary education) (correctional facility)
Teacher (high school education) (correctional facility)
Teacher (ethnic studies) (correctional facility)

Teacher (home economics) (correctional facility)
Teacher (librarian) (correctional facility)
Teacher (cerebral palsied children) (correctional facility)
Teacher (recreation and physical education) (correctional facility)
Teacher (music) (correctional facility)
Teacher (speech development and correction) (correctional facility)
Teacher (mentally retarded deaf children) (correctional facility)
Teacher (mentally retarded children) (correctional facility)
Teacher (emotionally handicapped) (correctional facility)
Teacher (family life education) (correctional facility)
Youth Authority teacher
Vocational instructor (dog grooming and handling) (correctional facility)
Vocational instructor (powerplant mechanics) (correctional facility)
Vocational instructor (airframe mechanics) (correctional facility)
Vocational instructor (auto body and fender repair) (correctional facility)
Vocational instructor (auto mechanics) (correctional facility)
Vocational instructor (baking) (correctional facility)
Vocational instructor (bookbinding) (correctional facility)
Vocational instructor (carpentry) (correctional facility)
Vocational instructor (cosmetology) (correctional facility)
Vocational instructor (culinary arts) (correctional facility)
Vocational instructor (merchandising) (correctional facility)
Vocational instructor (drycleaning works) (correctional facility)
Vocational instructor (electrical work) (correctional facility)
Vocational instructor (electronics) (correctional facility)
Vocational instructor (fire science) (correctional facility)
Vocational instructor (furniture refinishing and repair) (correctional facility)
Vocational instructor (garment making) (correctional facility)
Vocational instructor (heavy equipment repair) (correctional facility)
Vocational instructor (household appliance repair) (correctional facility)
Vocational instructor (industrial arts) (correctional facility)
Vocational instructor (instrument repair) (correctional facility)
Vocational instructor (janitorial service) (correctional facility)
Vocational instructor (landscape gardening) (correctional facility)
Vocational instructor (laundry work) (correctional facility)
Vocational instructor (machine shop practice) (correctional facility)
Vocational instructor (masonry) (correctional facility)
Vocational instructor (meat cutting) (correctional facility)
Vocational instructor (mechanical drawing) (correctional facility)

Vocational instructor (mill and cabinet work) (correctional facility)
Vocational instructor (offset printing) (correctional facility)
Vocational instructor (painting) (correctional facility)
Vocational instructor (plastering) (correctional facility)
Vocational instructor (printing) (correctional facility)
Vocational instructor (plumbing) (correctional facility)
Vocational instructor (radiologic technology) (correctional facility)
Vocational instructor (refrigeration and air-conditioning repair) (correctional facility)
Vocational instructor (sewing machine repair) (correctional facility)
Vocational instructor (sheet metal work) (correctional facility)
Vocational instructor (shoemaking) (correctional facility)
Vocational instructor (silk screening process) (correctional facility)
Vocational instructor (storekeeping and warehousing) (correctional facility)
Vocational instructor (typewriter repair) (correctional facility)
Vocational instructor (upholstering) (correctional facility)
Vocational instructor (commercial diver training) (correctional facility)
Vocational instructor (welding) (correctional facility)
Vocational instructor (vocational nursing) (correctional facility)
Senior librarian (correctional facility)
Librarian (correctional facility)

Any such officer or employee in employment on the operative date of this section may elect, by writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any person included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 2. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Adult Authority, Department of Corrections or the Department of the Youth Authority in the following classifications:

Classification
Farm manager
Crops farmer

Dairy manager
Dairy supervisor
Assistant dairy operator
Supervising groundskeeper II (correctional facility)
Supervising groundskeeper I (correctional facility)
Lead groundskeeper (correctional facility)
Groundskeeper (correctional facility)
Janitor supervisor II (correctional facility)
Janitor supervisor I (correctional facility)
Janitor (correctional facility)
Supervising housekeeper I (correctional facility)
Housekeeper (correctional facility)
Shoemaker (correctional facility)
Seamer (correctional facility)
Assistant seamer (correctional facility)
Barbershop manager (correctional facility)
Barber (correctional facility)
Laundry supervisor II (correctional facility)
Laundry supervisor I (correctional facility)
Laundry worker (correctional facility)
Laundry finisher (correctional facility)
Food manager (correctional facility)
Food administrator II (correctional facility)
Food administrator I (correctional facility)
Supervising cook II (correctional facility)
Supervising cook I (correctional facility)
Cook II (correctional facility)
Cook I (correctional facility)
Baker II (correctional facility)
Baker I (correctional facility)
Butcher-meatcutter II (correctional facility)
Food service assistant II (correctional facility)
Food service assistant I (correctional facility)
Building maintenance worker (correctional facility)
Warehouse worker (correctional facility)
Warehouse manager II (correctional facility)
Warehouse manager I (correctional facility)
Materials and stores supervisor II (correctional facility)
Materials and stores supervisor I (correctional facility)
Prison canteen manager I
Prison canteen manager II
Heavy truck driver (correctional facility)
Truckdriver (correctional facility)
Automotive equipment operator II (correctional facility)
Automotive equipment operator I (correctional facility)
Carpenter supervisor (correctional facility)
Carpenter II (correctional facility)
Carpenter I (correctional facility)
Painter supervisor (correctional facility)

Painter II (correctional facility)
Painter I (correctional facility)
Electrician supervisor (correctional facility)
Electrician II (correctional facility)
Electrician I (correctional facility)
Plumber supervisor (correctional facility)
Plumber I (correctional facility)
Steamfitter supervisor (correctional facility)
Steamfitter (correctional facility)
Mason (correctional facility)
Maintenance mechanic (correctional facility)
Locksmith (correctional facility)
Chief engineer I (correctional facility)
Stationary engineer supervisor (correctional facility)
Stationary engineer II (correctional facility)
Stationary engineer I (correctional facility)
Boilerroom tender (correctional facility)
Refrigeration engineer (correctional facility)
Water and sewage plant supervisor (correctional facility)
Chief of plant operation III (correctional facility)
Chief of plant operation II (correctional facility)
Chief of plant operation I (correctional facility)
Supervisor of building trades (correctional facility)
Equipment maintenance supervisor (correctional facility)
Lead automobile mechanic (correctional facility)
Automobile mechanic (correctional facility)
Automotive pool manager I (correctional facility)
Electronics technician (correctional facility)
Production manager III, correctional industries
Production manager II, correctional industries
Production manager I, correctional industries
Industrial maintenance superintendent
Detergent plant superintendent
Wood products factory superintendent
Assistant wood products factory superintendent
Wood products factory supervisor
Upholstery supervisor
Metal products factory superintendent
Assistant metal products factory superintendent
Metal products factory supervisor
Tool and die making supervisor
Textile products factory supervisor
Bedding factory superintendent
Textile products factory superintendent
Tobacco factory superintendent
Shoe factory superintendent
Shoe factory supervisor (lasting through packing)
Shoe factory supervisor (cutting and fitting)
Knitting mill superintendent

Knitting mill supervisor
Knit goods finishing supervisor
Industrial maintenance supervisor
Printing superintendent, correctional industries
Printing supervisor, correctional industries
Book repair and bindery supervisor, correctional industries
Laundry superintendent, correctional industries
Laundry supervisor, correctional industries
Senior medical technical assistant
Medical technical assistant (correctional facilities)
Supervising social worker II, Youth Authority
Supervising social worker I, Youth Authority
Social worker, Youth Authority

Any such officer or employee in employment on the operative date of this section, may elect by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 3. Section 20803.9 is added to the Government Code, to read:

20803.9. "State safety service" with respect to a member who becomes a state safety member pursuant to Section 20017.771 shall also include service prior to April 1, 1978, as an officer or employee of the Adult Authority, Department of Corrections, or the Department of the Youth Authority.

SEC. 4. Section 22013.9 is added to the Government Code, to read:

22013.9. "Policeman" as used in this part also includes persons employed in positions set forth in Section 20017.771; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 5. The sum of three thousand nine hundred twenty dollars ($3,920) is hereby appropriated from the General Fund to the State Controller to pay the costs of implementing this act.

SEC. 6. This act shall become operative upon receipt of a favorable ruling by the federal agency as required by Section 20017.771 or April 1, 1978, whichever is later.

CHAPTER 1070

An act to amend Sections 23425, 23426.5, 23427, 23428, 23428.5, 23428.6, 23428.7, 23428.8, 23428.9, 23428.10, 23428.11, 23428.12, 23438.13, 23428.15, 23428.16, 23428.17, 23428.18, 23428.22, 23428.23, and 23428.25 of, and to add Sections 23434, 23435, and 23437 to, the Business and Professions Code, relating to alcoholic beverages and making an appropriation therefor.

[Became law without Governor's signature September 26, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 23425 of the Business and Professions Code is amended to read:

23425. For the purposes of this article "club" means:

(a) Any chapter, aerie, parlor, lodge, or other local unit of an American national fraternal organization which has as the owner, lessee, or occupant thereof operated an establishment for fraternal purposes. An American national fraternal organization as used in this subdivision shall actively operate in not less than 20 states of the Union and have not less than 200 local units in those 20 states, and shall have been in active continuous existence for not less than 20 years.

(b) Any hall or building association of a local unit mentioned in subdivision (a), all of the capital stock of which is owned by the local unit or the members thereof, and which operates the clubroom facilities of the local unit.

SEC. 2. Section 23426 of the Business and Professions Code is amended to read:

23426. For the purposes of this article "club" also means any golf club which owns, maintains, or operates a regular golf links together with a clubhouse thereon; or any swimming and tennis club which maintains a standard AAU swimming pool and not less than two regulation tennis courts, together with the necessary facilities and clubhouse, which has members paying regular monthly dues; or any swimming club which maintains a standard AAU swimming pool and not less than two regulation tennis courts, together with the necessary facilities and clubhouse, or any tennis club which maintains not less than five regulation tennis courts, together with the necessary facilities and clubhouse, and which swimming club or tennis club has members paying regular monthly dues.

SEC. 3. Section 23426.5 of the Business and Professions Code is amended to read:

23426.5. For purposes of this article, "club" also means any tennis club which maintains not less than four regulation tennis courts, together with the necessary facilities and clubhouse, and which has members paying regular monthly dues and which has been in

existence for not less than 45 years and is not associated with a real estate development as defined in Section 11003.1 of this code, a community apartment project as defined in Section 11004 of this code, a project consisting of condominiums as defined in Section 783 of the Civil Code or a mobilehome park as defined in Section 18214 of the Health and Safety Code.

It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of such person's color, race, religion, ancestry, national origin, sex, or age.

SEC. 4. Section 23427 of the Business and Professions Code is amended to read:

23427. For the purposes of this article "club" also means any yacht club which is a nonprofit organization and is a regular member of a recognized national nonprofit yachting organization having a membership of not less than 200 member yacht clubs, which owns, maintains, or operates a clubhouse.

SEC. 5. Section 23428 of the Business and Professions Code is amended to read:

23428. For the purposes of this article "club" also means any bar association having an authorized delegate to the American Bar Association and composed entirely of attorneys at law, duly admitted, licensed, and qualified to practice within the state, which has a bona fide membership of more than 1,000 members and has been in existence for a period of more than 20 years, and which owns, leases, operates or maintains, a club room or rooms for its membership.

SEC. 6. Section 23428.5 of the Business and Professions Code is amended to read.

23428.5. For the purpose of this article "club" also means any press club which is a nonprofit organization and whose members are entitled to exchange privileges with similar organizations in at least 12 other states, and which has a bona fide membership and which owns, leases, and operates or maintains a clubhouse or clubroom or any nonprofit incorporated press club having a membership and which owns, or leases, and operates, a club room or rooms for its members.

No license shall be issued to any press club qualifying as a club pursuant to this section if the press club in any manner restricts membership or the use of its facilities on the basis of race, religion, national origin, or sex.

SEC. 7. Section 23428.6 of the Business and Professions Code is amended to read:

23428.6. For the purposes of this article, "club" also means any association of livestock, or livestock-allied businessmen, joined together as a nonprofit corporation, registered as such in the State of California. The organization of the group shall be for the sole purpose of social activity.

Such a group shall own, lease, or maintain a club room or rooms

for its membership. Such a club may sell and serve alcoholic beverages only to its bona fide members and their bona fide guests.

SEC. 8. Section 23428.7 of the Business and Professions Code is amended to read:

23428.7. For the purposes of this article "club" also means any bona fide nonprofit corporation, which is a bona fide horse riding club, which is a member of a statewide organization or association, which owns, maintains, or operates premises upon which a regular riding club together with a clubhouse is maintained.

SEC. 9. Section 23428.8 of the Business and Professions Code is amended to read:

23428.8. For the purposes of this article, "club" also means any parlor of the Native Sons of the Golden West which has as the owner, lessee or occupant thereof operated an establishment for fraternal purposes.

SEC. 10. Section 23428.9 of the Business and Professions Code is amended to read:

23428.9. For the purpose of this article "club" also means any nonprofit social club which serves daily meals to its members and guests, owns or leases, operates and maintains a club room or rooms for its membership and has operated the club room or rooms for a period of not less than 10 years and has regular membership dues of not less than fifty dollars ($50) per year per member.

SEC. 11. Section 23428.10 of the Business and Professions Code is amended to read:

23428.10. For the purposes of this article "club" also means any peace officers association which is composed entirely of active and retired peace officers, which holds regular meetings and has regular dues, and which owns, leases, operates, or maintains an establishment for association purposes.

SEC. 12. Section 23428.11 of the Business and Professions Code is amended to read:

23428.11. For the purposes of this article "club" also means any firemen's association which is composed entirely of active and retired firemen, which holds regular meetings and has regular dues, and which owns, leases, operates, or maintains an establishment for association purposes.

SEC. 13. Section 23428.12 of the Business and Professions Code is amended to read:

23428.12. For purposes of this article "club" also means any nonprofit social and religious club which owns or leases, operates and maintains a club room or rooms for its membership, and has operated the club room or rooms for a period of not less than eight years, and has regular membership dues of not less than twenty-five dollars ($25) per year per member.

SEC. 14. Section 23428.13 of the Business and Professions Code is amended to read:

23428.13. For purposes of this article "club" also means any club operated by a common carrier by air at an airport terminal. Such club

shall qualify for a license under this article notwithstanding the provisions of Section 23037. The provisions of Section 23399 and the numerical limitation of Section 23430 shall not apply to such a club.

SEC. 15. Section 23428.15 of the Business and Professions Code is amended to read:

23428.15. For the purposes of this article, "club" also means any parlor of the American Citizens Club in existence on the effective date of this chapter which the club has as the owner, lessee, or occupant thereof operated as an establishment for fraternal purposes and in which alcoholic beverages are sold only to members of the club whose membership dues in the club have been paid.

SEC. 16. Section 23428.16 of the Business and Professions Code is amended to read:

23428.16. For purposes of this article, "club" also means any nonprofit social luncheon club which is composed entirely of active and retired professional men and businessmen, which holds regular meetings and has regular annual membership dues in excess of two hundred dollars ($200), which owns, leases, operates or maintains such establishment for the serving of regular meals to its members and their guests.

SEC. 17. Section 23428.17 of the Business and Professions Code is amended to read:

23428.17. For the purposes of this article, "club" also means any department or local forum of the American GI Forum of the U.S. which owns or leases, operates and maintains a club room or rooms for its membership. Such a club, if issued a club license pursuant to Section 23430, may sell and serve alcoholic beverages for consumption within the licensed establishment only to bona fide members of the club and their bona fide guests.

SEC. 18. Section 23428 18 of the Business and Professions Code is amended to read.

23428.18. For purposes of this article, "club" also means any labor council which is chartered by a national labor organization having affiliates in each state of the United States, consists of delegates from not less than 20 separately chartered affiliated labor organizations, as defined by the National Labor Relations Act, the combined membership of which is not less than 7,000 persons, and owns or leases a building of not less than 3,000 square feet which is used by the delegates, or members of affiliated labor organizations, or both, for their social activities No labor council which makes any discrimination, distinction, or restriction against any person on account of such person's age, sex, color, race, religion, ancestry, or national origin shall be licensed pursuant to this section.

SEC. 19. Section 23428.22 of the Business and Professions Code is amended to read:

23428.22. For purposes of this article, "club" also means any nonprofit corporation whose principal purpose is to promote cultural ties and understanding between citizens of a foreign country or commonwealth and citizens of the United States, which has a bona

fide membership of more than 10,000 members each of whom pay regular membership dues, which owns, leases, operates or maintains an establishment for fraternal purposes. Such a club, if issued a license pursuant to Section 23430, may sell and serve alcoholic beverages for consumption within the licensed establishment only to bona fide members of the club and their bona fide guests.

No license shall be issued pursuant to this section to any club which restricts membership or the use of any of its facilities on the basis of race, religion, national origin, or sex.

SEC. 20. Section 23428.23 of the Business and Professions Code is amended to read

23428.23. For the purposes of this article "club" also means any letter carriers local which is chartered by a national labor organization having affiliates in each state of the United States, which consists of not less than 1,500 members as defined by the National Labor Relations Act, and which owns or leases a building of not less than 5,000 square feet that is used by the members, or by the members of other labor organizations, or both, for their social activities. No letter carriers local which makes any discrimination, distinction, or restriction against any person on account of such person's age, sex, color, race, religion, ancestry, or national origin shall be licensed pursuant to this section. No club licensed under this section shall engage in the sale of alcoholic beverages for consumption outside of the licensed premises.

SEC. 21. Section 23428.25 of the Business and Professions Code is amended to read:

23428.25. For the purposes of this article, "club" also means any Hidalgo Society the purpose of which is to operate for the advancement of education for the improvement of social and economic conditions, to help lessen neighborhood tension, lessen the burden on welfare systems, to help eliminate prejudice and discrimination and for other charitable causes that might be present in the community. Such a group shall be located in a county of the 32nd class, have members who pay dues, and shall own, lease, or maintain a club room or rooms for its membership.

It shall be unlawful for any club licensed pursuant to this section to make any discrimination, distinction, or restriction against any person on account of such person's color, race, religion, ancestry, national origin, sex, or age.

SEC. 22. Section 23434 is added to the Business and Professions Code, to read:

23434. (a) Notwithstanding any other provision of this division, on and after the effective date of this section, no new club license shall be issued to any club which is not a nonprofit organization.

(b) On and after the effective date of this section, no club license shall be issued to a nonprofit corporation pursuant to a law enacted after the effective date of this section unless the nonprofit corporation engages in at least some volunteer action for the community of which it is a part.

SEC. 23. Section 23435 is added to the Business and Professions Code, to read:

23435. On and after the effective date of this section, no new club license shall be issued for any club, organization, or association which does not have at least 100 members and which has not been in existence for at least two years.

SEC. 24. Section 23437 is added to the Business and Professions Code, to read:

23437. Notwithstanding any other provision of this division, no club license issued under this article shall entitle the holder to any off-sale privileges.

SEC. 25 It is the intent of the Legislature by enacting this act revising the membership and duration requirements for a club license issued pursuant to the Alcoholic Beverage Control Act that such requirements are to apply only to any club license issued on and after the effective date of this act.

CHAPTER 1071

An act to amend Sections 20017.79 and 20980.1 of, and to add Sections 20017.791, 20019.5 and 22013.8 to, the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 26, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Adult Authority, Department of Corrections or the Department of Youth Authority in the following classifications:

Classification
Farm manager
Crops farmer
Dairy manager
Dairy supervisor
Assistant dairy operator
Supervising groundskeeper II (correctional facility)
Supervising groundskeeper I (correctional facility)
Lead groundskeeper (correctional facility)
Groundskeeper (correctional facility)
Janitor supervisor II (correctional facility)
Janitor supervisor I (correctional facility)
Janitor (correctional facility)

Supervising housekeeper I (correctional facility)
Housekeeper (correctional facility)
Shoemaker (correctional facility)
Seamer (correctional facility)
Assistant seamer (correctional facility)
Barbershop manager (correctional facility)
Barber (correctional facility)
Laundry supervisor II (correctional facility)
Laundry supervisor I (correctional facility)
Laundry worker (correctional facility)
Laundry finisher (correctional facility)
Food manager (correctional facility)
Food administrator II (correctional facility)
Food administrator I (correctional facility)
Supervising cook II (correctional facility)
Supervising cook I (correctional facility)
Cook II (correctional facility)
Cook I (correctional facility)
Baker II (correctional facility)
Baker I (correctional facility)
Butcher-meat cutter II (correctional facility)
Food service assistant II (correctional facility)
Food service assistant I (correctional facility)
Supervisor of correctional education programs
Supervisor of academic instruction (correctional facility)
Supervisor of vocational instruction
Supervisor of commercial diver training
Teacher (arts and crafts) (correctional facility)
Teacher (business education) (correctional facility)
Teacher (elementary education) (correctional facility)
Teacher (high school education) (correctional facility)
Teacher (ethnic studies) (correctional facility)
Teacher (home economics) (correctional facility)
Teacher (librarian) (correctional facility)
Teacher (cerebral palsied children) (correctional facility)
Teacher (recreation and physical education) (correctional facility)
Teacher (music) (correctional facility)
Teacher (speech development and correction) (correctional facility)
Teacher (mentally retarded deaf children) (correctional facility)
Teacher (mentally retarded children) (correctional facility)
Teacher (emotionally handicapped) (correctional facility)

Teacher (family life education) (correctional facility)
Youth Authority teacher
Vocational instructor (dog grooming and handling) (correctional facility)
Vocational instructor (powerplant mechanics) (correctional facility)
Vocational instructor (airframe mechanics) (correctional facility)
Vocational instructor (auto body and fender repair) (correctional facility)
Vocational instructor (auto mechanics) (correctional facility)
Vocational instructor (baking) (correctional facility)
Vocational instructor (bookbinding) (correctional facility)
Vocational instructor (carpentry) (correctional facility)
Vocational instructor (cosmetology) (correctional facility)
Vocational instructor (culinary arts) (correctional facility)
Vocational instructor (merchandising) (correctional facility)
Vocational instructor (drycleaning works) (correctional facility)
Vocational instructor (electrical work) (correctional facility)
Vocational instructor (electronics) (correctional facility)
Vocational instructor (fire science) (correctional facility)
Vocational instructor (furniture refinishing and repair) (correctional facility)
Vocational instructor (garment making) (correctional facility)
Vocational instructor (heavy equipment repair) (correctional facility)
Vocational instructor (household appliance repair) (correctional facility)
Vocational instructor (industrial arts) (correctional facility)
Vocational instructor (instrument repair) (correctional facility)
Vocational instructor (janitorial service) (correctional facility)
Vocational instructor (landscape gardening) (correctional facility)
Vocational instructor (laundry work) (correctional facility)

Vocational instructor (machine shop practice) (correctional facility)
Vocational instructor (masonry) (correctional facility)
Vocational instructor (meat cutting) (correctional facility)
Vocational instructor (mechanical drawing) (correctional facility)
Vocational instructor (mill and cabinet work) (correctional facility)
Vocational instructor (offset printing) (correctional facility)
Vocational instructor (painting) (correctional facility)
Vocational instructor (plastering) (correctional facility)
Vocational instructor (printing) (correctional facility)
Vocational instructor (printing) (correctional facility)
Vocational instructor (radiologic technology) (correctional facility)
Vocational instructor (refrigeration and air-conditioning repair) (correctional facility)
Vocational instructor (sewing machine repair) (correctional facility)
Vocational instructor (sheet metal work) (correctional facility)
Vocational instructor (shoemaking) (correctional facility)
Vocational instructor (silk screening process) (correctional facility)
Vocational instructor (storekeeping and warehousing) (correctional facility)
Vocational instructor (typewriter repair) (correctional facility)
Vocational instructor (upholstering) (correctional facility)
Vocational instructor (commercial diver training) (correctional facility)
Vocational instructor (welding) (correctional facility)
Vocational instructor (vocational nursing) (correctional facility)
Senior librarian (correctional facility)
Librarian (correctional facility)
Building maintenance worker (correctional facility)
Warehouse worker (correctional facility)
Warehouse manager II (correctional facility)
Warehouse manager I (correctional facility)
Materials and stores supervisor II (correctional facility)
Materials and stores supervisor I (correctional facility)
Prison canteen manager I
Prison canteen manager II

Heavy truck driver (correctional facility)
Truck driver (correctional facility)
Automotive equipment operator II (correctional facility)
Automotive equipment operator I (correctional facility)
Carpenter supervisor (correctional facility)
Carpenter II (correctional facility)
Carpenter I (correctional facility)
Painter supervisor (correctional facility)
Painter II (correctional facility)
Painter I (correctional facility)
Electrician supervisor (correctional facility)
Electrician II (correctional facility)
Electrician I (correctional facility)
Plumber supervisor (correctional facility)
Plumber I (correctional facility)
Steamfitter supervisor (correctional facility)
Steamfitter (correctional facility)
Mason (correctional facility)
Maintenance mechanic (correctional facility)
Locksmith (correctional facility)
Chief engineer I (correctional facility)
Stationary engineer supervisor (correctional facility)
Stationary engineer II (correctional facility)
Stationary engineer I (correctional facility)
Boiler room tender (correctional facility)
Refrigeration engineer (correctional facility)
Water and sewage plant supervisor (correctional facility)
Chief of plant operation III (correctional facility)
Chief of plant operation II (correctional facility)
Chief of plant operation I (correctional facility)
Supervisor of building trades (correctional facility)
Equipment maintenance supervisor (correctional facility)
Lead automobile mechanic (correctional facility)
Automobile mechanic (correctional facility)
Automotive pool manager I (correctional facility)
Electronics technician (correctional facility)
Production manager III, correctional industries
Production manager II, correctional industries
Production manager I, correctional industries
Industrial maintenance superintendent
Detergent plant superintendent
Wood products factory superintendent
Assistant wood products factory superintendent
Wood products factory supervisor
Upholstery supervisor

Metal products factory superintendent
Assistant metal products factory superintendent
Metal products factory supervisor
Tool and die making supervisor
Textile products factory supervisor
Bedding factory superintendent
Textile products factory superintendent
Tobacco factory superintendent
Shoe factory superintendent
Shoe factory supervisor (lasting through packing)
Shoe factory supervisor (cutting and fitting)
Knitting mill superintendent
Knitting mill supervisor
Knit goods finishing supervisor
Industrial maintenance supervisor
Printing superintendent, correctional industries
Printing supervisor, correctional industries
Book repair and bindery supervisor, correctional industries
Laundry superintendent, correctional industries
Laundry supervisor, correctional industries
Senior medical technical assistant
Medical technical assistant (correctional facilities)
Supervising social worker II, Youth Authority
Supervising social worker I, Youth Authority
Social worker, Youth Authority

Any such officer or employee in employment on the operative date of this section, may elect by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any person included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 1.5. Section 20017.791 is added to the Government Code, to read:

20017.791. Any person who was employed in the classifications listed in Section 20017.79 immediately prior to retirement on and after January 1, 1977, and any person who is eligible to receive any benefits with respect to such person, shall have such allowance and benefits recalculated on the date that Section 20017.79 becomes applicable to such classification and to receive allowances and benefits computed on such basis.

Any such person shall have the right to elect, within 90 days of the operative date of this section, not to have their allowance and benefits recalculated on the date Section 20017.79 becomes applicable to the classification that the person was employed in immediately prior to retirement.

It is the intent of the Legislature in amending this section to merely correct for the delay of the Department of Health, Education, and Welfare in approving the removal of social security coverage from the employees specified in Chapter 24 of the Statutes of 1976. It is not the intent of the Legislature to set a precedent granting retirement benefits retroactively after changes in the law.

SEC. 2. Section 20019.5 is added to the Government Code, to read:

20019.5. Persons employed in positions which are found to come within the definition of local safety member as the result of administrative review by the board or court action and who were previously miscellaneous members may elect to remain local miscellaneous members by filing written notice of their intent with the board no later than 90 days after the date of notice to the member of their right to make such an election. This section shall not apply to persons employed by a county of the fifth class.

SEC. 3. Section 20890.1 of the Government Code is amended to read:

20980.1. Notwithstanding Section 20980, any local safety member in employment on the effective date of an amendment to his employer's contract subjecting the member to Section 21252.01 and who has attained age 60 and is credited with less than 20 years of service as a local safety member or who will not be credited with 20 years of such service if he continues in employment to age 60 shall, at the option of the contracting agency, not be retired, except on his application, prior to his completion of 20 years of such service after attaining age 60 or his attainment of age 65, whichever first occurs.

This section shall apply to a contracting agency for five years after the date of that agency's adoption of Section 21252.01 and shall thereafter be inapplicable to such agency.

The provisions of this section shall also apply to a county of the fifth class which is a contracting agency, and which has adopted Section 21252.01, for five years after a final court decision including members, who were formerly in the local miscellaneous membership category, within the local safety membership category.

SEC. 4. Section 22013.8 is added to the Government Code, to read:

22013.8. "Policeman" as used in this part also includes persons employed in positions set forth in Section 20017.79; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this

section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as a part of their normal operating procedures and this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

SEC. 6. Section 2 of this act shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in positions set forth in Section 20017.79 of the Government Code within the definition of "policeman" is issued by the federal agency for purposes of Section 218 (d) (5) (A) of the Social Security Act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the benefits of this act to be available prior to the commencement of the 1977–78 fiscal year, this act must take effect immediately.

CHAPTER 1072

An act to amend Sections 2104 and 2110 of the Streets and Highways Code, relating to county highways, and making an appropriation therefor.

[Became law without Governor's signature September 26, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 2104 of the Streets and Highways Code is amended to read:

2104. A sum equal to the net revenue derived from 1.625 cents ($0.01625) per gallon tax under the Motor Vehicle Fuel License Tax Law, and five hundred thousand dollars ($500,000) annually, shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses in respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or two million dollars ($2,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall

be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the several counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last Friday of each calendar month, furnish to the State Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last Friday of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining moneys payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by forty-two dollars ($42); from the resultant amount there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining moneys payable, after the foregoing apportionments, shall be apportioned among the several counties in the same proportion as the moneys referred to in subdivision (d).

SEC. 2. Section 2110 of the Streets and Highways Code is amended to read:

2110. The moneys payable to the counties under subdivision (b) of Section 2104 shall be apportioned monthly among the several counties as follows:

A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or two million dollars ($2,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads as follows:

If such total is less than two million dollars ($2,000,000), the full amount of such reimbursable snow removal costs shall be apportioned to the several counties in an amount equal to that computed pursuant to subdivision (d) of the report filed by each such county pursuant to Section 2152.

If such total is two million dollars ($2,000,000) or more, each fiscal year the State Controller shall compute percentages for the apportionment of two million dollars ($2,000,000) to the several counties in the state for snow removal on county roads, including the purchase of snow removal equipment therefor, and shall apportion such amount to the counties in the computed percentages. The percentage each county is to be apportioned during such fiscal year shall be derived by adding its reimbursable snow removal expenditures for the three preceding fiscal years as to which the State Controller has received snow removal expenditure reports

pursuant to Section 2152, and dividing the sum by the total amount of reimbursable snow removal expenditures by all counties in the state during such fiscal years.

On or before the first day of March of each year, the State Controller shall notify each county of the amount apportioned to it pursuant to this section for expenditure for snow removal on county roads during the following fiscal year.

SEC. 3. Sections 1 and 2 of this act shall not become operative unless (a) the California Transportation Plan is adopted and (b) the Legislature by statute finds that the increase in allowable allocations to counties for reimbursable snow removal costs would give equal consideration to the transportation needs of all areas of the state and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan.

SEC. 4. The Legislature hereby finds and declares that the revised allocation of revenues provided in this act constitutes an equitable geographic and jurisdictional distribution of funds subject to the provisions of Article XIX of the California Constitution.

CHAPTER 1073

An act to amend Section 830.4 of the Penal Code, and to add Section 30504 to the Public Utilities Code, relating to peace officers.

[Became law without Governor's signature September 26, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 830.4 of the Penal Code is amended to read:

830.4. (a) The following persons are peace officers while engaged in the performance of the duties of their respective employments:

(1) Security officers of the California State Police Division.

(2) The Sergeant at Arms of each house of the Legislature.

(3) Bailiffs of the Supreme Court and of the courts of appeal.

(4) Guards and messengers of the Treasurer's office.

(5) The Director of the Department of Navigation and Ocean Development and employees of such department designated by him pursuant to Section 71.2 of the Harbors and Navigation Code.

(6) The hospital administrator of a state hospital under the jurisdiction of the Department of Mental Hygiene or, on or after July 1, 1973, the State Department of Health, and police officers designated by him pursuant to Section 4312 of the Welfare and Institutions Code.

(7) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities

Code.

(8) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(9) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(10) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973, shall have completed the course of instruction within 60 days after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(11) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(12) Persons employed as members of a security patrol of a school district pursuant to Section 15832 of the Education Code.

(13) Duly authorized federal employees, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

(14) Security guards of the County of Los Angeles.

(15) (A) Persons regularly employed and designated by the Board of Directors of the Monterey Peninsula Airport District as airport policemen.

(B) Any such person employed on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any person so employed after July 6, 1973, shall have completed the course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport

security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(16) Any person regularly employed as an airport security officer by any airport operated by the City and County of San Francisco, Orange County, or the County of San Joaquin if he meets the following requirements:

(A) If employed by the City and County of San Francisco or Orange County on or before July 6, 1973, he shall have completed the course of instruction required by Section 832 by September 1, 1973, or if employed after July 6, 1973, he shall have completed such course of instruction within 60 days after such employment. If employed by the County of San Joaquin on or before September 25, 1973, he shall have completed the course of instruction required by Section 832 by December 1, 1973; or if employed after September 25, 1973, he shall have completed such course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(B) He shall be commissioned as a peace officer by the police commission or the board of supervisors of the city and county, or county, as the case may be, operating the airport.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(D) In the case of any person regularly employed as an airport security officer by any such airport located in the County of San Mateo, he shall either be deputized by, or have the written consent of, the Sheriff of San Mateo County.

(17) Housing authority patrol officers employed by the City of Los Angeles or by the Housing Authority of the County of Contra Costa or by the Housing Authority of the County of Los Angeles.

(18) (A) Persons regularly employed and designated by the City of Fresno as airport security officers for the Fresno Air Terminal.

(B) Before exercising the powers of a peace officer, all persons so employed shall have satisfactorily completed the course of instruction so required by Sections 832 and 832.1.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(19) Any person regularly employed as an airport security officer by any airport operated by the City of Palm Springs if he meets the following requirements:

(A) If employed by the City of Palm Springs on or before July 1, 1976, he shall have completed the course of instruction required by Section 832 by September 1, 1976, or if employed after July 1, 1976,

he shall have completed the course of instruction required by Section 832 within 60 days of employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer.

(B) He shall be commissioned as a peace officer by the City Council of the City of Palm Springs.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(20) Transit police officers of the Southern California Rapid Transit District. Before exercising the powers of a peace officer, any person so employed shall have satisfactorily completed the courses of instruction required by Section 832.

(b) The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed with respect to persons or property the protection of which is the immediate duty of such officer; provided, that the primary duty of any such peace officer pursuant to paragraph (20) of subdivision (a) shall be the enforcement of the law in or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district; provided, further, that he shall not otherwise act as a peace officer in enforcing the law except (1) when in pursuit of any offender or suspected offender from within or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district; (2) to make arrests otherwise lawful for crimes committed, or which there is probable cause to believe have been committed, in his presence or within or about properties owned, operated or administered by the district; or (3) when, while in uniform such officer, as a peace officer, is requested by a peace officer or other person to render such assistance as is appropriate under such circumstances to the officer or other person making such request, or to act upon his complaint.

SEC. 2. Section 30504 is added to the Public Utilities Code, to read:

30504. The district is authorized to maintain a suitable security force comprised of transit police officers and security guards. Persons designated as transit police officers are peace officers pursuant to Section 830.4 of the Penal Code. The district shall adhere to the standards for recruitment and training of peace officers established by the Commission on Peace Officer Standards and Training pursuant to Title 4 (commencing with Section 13500) of Part 4 of the Penal Code in the recruitment and training of its transit police officers. Every transit police officer employed by the district shall conform to the standards for peace officers of the Commission on Peace Officer Standards and Training and the commanding officer

of the unit shall, not later than July 1, 1979, (1) have at least 10 years of active law enforcement experience in a capacity of employment requiring peace officer status and (2) have met the requirements for the advanced certificate of the Commission on Peace Officer Standards and Training, (3) have attended a POST-approved law enforcement management course, and (4) have an associate of arts degree or higher. Any such officer who fails to conform to such standards by July 1, 1979 shall not continue to have the powers of a peace officer.

SEC. 3. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers and duties, and that there be no change in the status of individual peace officers or classes of peace officers for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

CHAPTER 1074

An act to amend Sections 69750, 73113.5, 74702, 74702.5, 74703, 74704, 74705, 74708, 74840, 74845, 74847, 74954, and 74954.5 of, and to add Sections 73672.6 and 74701.5 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 26, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 69750 of the Government Code is amended to read:

69750. Whenever, pursuant to this article or subdivision (a) of Section 68115, in the assignment of the business of the superior court it becomes necessary for a judge, clerk, deputy clerk, court reporter, or secretary, who is regularly assigned to duty at the county seat or at a city outside of the county seat where a session of the superior court is held to travel to a city other than that to which such person is regularly assigned for temporary attendance at a session of the superior court, such persons shall be allowed their necessary expenses in going to, returning from, and attending upon the business of such court. Such expense is a charge against the treasury of the county and shall be paid out of the general fund.

Whenever a judge of a municipal court within a county is assigned to sit as a judge of the superior court of said county, such judge shall be regularly assigned to duty at the county seat or at a city outside the county seat by the presiding judge, and shall thereupon be entitled to the benefits of this section.

SEC. 1.5. Section 73113.5 of the Government Code is amended to read:

73113.5. Whenever reference is made to a numbered salary range in any section of this chapter, the salary schedule found in the salary ordinance of San Bernardino County in effect on June 1, 1974, shall apply.

Salaries are to be paid biweekly in accordance with the same provisions which govern payment of classified employees of the County of San Bernardino.

Each salary range shall have nine (9) steps labeled as follows: A, 1, B, 2, C, 3, D, 4, E. The salary schedule incorporated by reference by this section shows the hourly, biweekly, and approximate monthly rate for each step in the salary range. The biweekly and approximate monthly rate are computed on the basis of full-time employment.

The hiring salary for each position set forth shall be the salary in column A. A service period of 13 pay periods shall be required for a salary increase from column A to column B. An additional service period of 26 pay periods shall be required for a salary increase from column B to column C; 26 additional pay periods shall be required for a salary increase from column C to column D; and 26 additional pay periods shall be required for a salary increase from column D to column E.

Administration of the salary plan provided by this chapter, including the hiring date; increases within range; salary on promotion, transfer, or demotion; salary on position reclassification, and all other relevant matters, shall be in accordance with the current personnel rules and ordinances of the County of San Bernardino.

Notwithstanding any other provisions of law, the salary and classifications of municipal court employees provided by Sections 73107, 73110, 73113, and this section may be increased or decreased within the range limits of the salary schedule incorporated by reference by this section in order to provide classification and compensation that is comparable to county employees of similar qualifications and experience in the classified service of San Bernardino County as such comparability is determined by the board of supervisors. Any salary increases granted or reclassifications made pursuant to this paragraph shall be effective only until January 1, 1979.

SEC. 1.7. Section 73672.6 is added to the Government Code, to read:

73672.6. Any traffic trial commissioner appointed pursuant to Article 10 (commencing with Section 72450) of Chapter 9 of this title to serve a municipal court district in the County of Solano shall receive a salary equal to 75% of the salary of a judge of a municipal court.

SEC. 2. Section 74701.5 is added to the Government Code, to read:

74701.5. The judges of the Sonoma County Municipal Court may

appoint one traffic referee who shall receive a salary equal to 50 percent of the salary of a judge of the municipal court.

SEC. 2.1. Section 74702 of the Government Code is amended to read:

74702. The judges of the municipal court shall appoint one clerk who shall receive a salary equivalent to range 779 of the salary schedule.

SEC. 2.2. Section 74702.5 of the Government Code is amended to read:

74702.5. The judges of the municipal court may appoint a court administrator who shall assume and discharge the clerk's administrative responsibilities and personnel appointive powers. The court administrator shall receive a salary equivalent to range 952 of the salary schedule.

SEC. 2.3. Section 74703 of the Government Code is amended to read:

74703. Assistant clerks and other municipal court clerical employees shall receive salaries as follows:

	Salary range
Administrative assistant II	709
Accountant I	580
Assistant clerk	500
Municipal court secretary	525
Deputy jury commissioner	500
Deputy clerk IV	446
Clerk-typist IV	446
Account clerk II	406
Deputy clerk III	396
Clerk-typist III	396
Deputy clerk II	346
Clerk-typist II	346
Deputy clerk I	315
Clerk-typist I	315

SEC. 2.5. Section 74704 of the Government Code is amended to read:

74704. (a) Whenever reference is made to a numbered salary range in any section of this article, the salary schedule found in the salary ordinance of Sonoma County in effect July 1, 1977, shall apply.

(b) When an individual is initially employed in any position prescribed by this article, they shall be compensated in a manner identical to that afforded county employees through the provisions of the Sonoma County salary ordinance.

SEC. 2.6. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job and salary level to certain classes in

the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	County classification
Clerk	Assistant county clerk, plus 2.5%
Accountant I	Accountant I
Assistant clerk	Executive secretary
Municipal court secretary	Superior court secretary
Deputy clerk IV	Clerk-typist IV
Clerk-typist IV	Clerk-typist IV
Deputy clerk III	Clerk-typist III
Clerk-typist III	Clerk-typist III
Deputy clerk II	Clerk-typist II
Clerk-typist II	Clerk-typist II
Deputy clerk I	Clerk-typist I
Clerk-typist I	Clerk-typist I
Court administrative officer	Court administrative officer/jury commissioner
Administrative assistant II	Administrative assistant II
Deputy jury commissioner	Deputy jury commissioner
Account clerk II	Account clerk II

SEC. 2.7. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be four judges who may together appoint

(1) One court administrative officer.

(2) One traffic referee.

(3) One clerk.

(4) One court reporter.
(5) Two municipal court secretaries.
(b) There shall be one clerk, who may appoint:
(1) One administrative assistant II.
(2) One accountant I.
(3) Two assistant clerks.
(4) Eleven deputy clerks IV.
(5) Fifteen deputy clerks III.
(6) Thirteen deputy clerks II.
(7) One account clerk II.
(8) One deputy jury commissioner.
(9) One clerk-typist II.

SEC. 2.8. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:
(a) There shall be five judges who may together appoint:
(1) One court administrative officer.
(2) One traffic referee.
(3) One clerk.
(4) One court reporter.
(5) Two municipal court secretaries.
(b) There shall be one clerk, who may appoint:
(1) One administrative assistant II.
(2) One accountant I.
(3) Two assistant clerks.
(4) Eleven deputy clerks IV.
(5) Fifteen deputy clerks III.
(6) Thirteen deputy clerks II.
(7) One account clerk II.
(8) One deputy jury commissioner.
(9) One clerk-typist II.

SEC. 2.9. Section 74840 of the Government Code is amended to read:

74840. This article applies to the municipal court established in a district designated as the Vallejo-Benicia Judicial District in the County of Solano.

SEC. 3. Section 74845 of the Government Code is amended to read:

74845. The marshal may appoint:
(a) One supervising marshal's clerk.
(b) Five deputy marshals II or deputy marshals I, as shall be determined by the judges with the concurrence of the board of supervisors, provided, however, that two additional deputy marshals may be appointed upon the determination of the judges with the concurrence of the board of supervisors.
(c) Two clerks II or I.
(d) One sergeant-marshal.

(e) One account clerk I or II.

Each of these employees shall receive the salary specified in Section 74847 for his classification.

SEC. 4. Section 74847 of the Government Code is amended to read:

74847. Persons employed in any of the positions authorized by this article except the marshal shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 74846:

Position	Range
(a) Deputy clerk I	213
(b) Clerk II	236
(c) Account clerk I	236
(d) Deputy clerk II	273
(e) Account clerk II	276
(f) Legal secretary	310
(g) Deputy clerk III	313
(h) Supervising marshal's clerk	335
(i) Account clerk III	336
(j) Municipal courtroom clerk	343
(k) Deputy clerk IV	363
(*l*) Deputy clerk V	403
(m) Deputy marshal I	439
(n) Deputy marshal II	459
(o) Chief deputy clerk	466
(p) Sergeant-marshal	512
(q) Clerk	590
(r) Clerk I	196

Each person employed in the office of the clerk and the office of the marshal, including the clerk and the marshal, on the effective date of the amendments to this section enacted at the 1967 Regular Session of the Legislature shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and his prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the judges of the court determine that the officer or employee is entitled to receive it. The clerk, deputy clerks, and the attachés of the court shall be appointed at the first step for the range assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is hired, the judges may appoint such person at the second step of the range assigned to that classification. In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 74846, and, provided, further, that if the judges are unable to secure a qualified person to fulfill the

position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed nine hundred dollars ($900) biweekly.

SEC. 5. Section 74954 of the Government Code is amended to read:

74954. (a) Whenever a reference is made to a numbered salary range according to the standard salary schedule in any section of this article, the schedule found in the salary ordinance of the County of Napa in effect March 1, 1977, shall apply.

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates on the standard salary schedule for the County of Napa, effective on the date of this act, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court employees under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 6. Section 74954.5 of the Government Code is amended to read:

74954.5. (a) Whenever a reference is made to a numbered salary range according to the management and nonclassified personnel salary schedule in any section of this article, the schedule found in the salary ordinance of the County of Napa in effect March 1, 1977, shall apply.

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates for the management and nonclassified personnel of the County of Napa, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court management and nonclassified personnel under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 1807 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 74708 of the Government Code, and this bill is chaptered after Assembly Bill No. 1807, that Section 74708 of the Government Code, as amended by Section 2.7 of this act, shall remain operative until the effective date of Assembly Bill No. 1807, and that on the effective date of Assembly Bill No. 1807 Section 74708 of the Government Code, as amended by Section 2.7

of this act, be further amended in the form set forth in Section 2.8 of this act to incorporate the changes in Section 74708 proposed by Assembly Bill No. 1807. Therefore, if this bill and Assembly Bill No. 1807 are both chaptered and become effective on or before January 1, 1978, and Assembly Bill No. 1807 is chaptered before this bill and amends Section 74708, Section 2.8 of this act shall become operative on the effective date of Assembly Bill No. 1807.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act will have a significant impact on the administration of the courts in Napa County. In order to achieve its intended results, it is necessary that this act take effect immediately.

In addition, legislation establishing the compensation, number and positions of municipal court personnel in San Bernardino County in 1974 provided that future adjustments could be made until January 1, 1977. Adjustments are now being negotiated which will result in a delay in implementation of changes in such county unless the expiration date of authority to make changes is extended to January 1, 1979.

CHAPTER 1075

An act to amend Sections 73076, 73077, 73078, 73084, 73084.1, 73084.2, 73084.3, 73084.4, 73084.5, 73084.6, 73085, 73086, 73086.5, 73087, 73088, 73089, 73091, 73095, and 73096 of, to add Section 68532 to, and to repeal Section 73081 of, the Government Code, relating to courts.

[Became law without Governor's signature September 26, 1977. Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 68532 is added to the Government Code, to read:

68532. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Alameda County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting

period.

(2) The fees charged and the fees collected for such transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

(5) Such other information as the Judicial Council may require.

SEC. 1.5. Section 73076 of the Government Code is amended to read:

73076. Whenever reference to salary item number classification is made in any section of this chapter, the item classification found in the salary ordinance established for municipal courts in Alameda County and the salary ordinance for the County of Alameda shall apply.

SEC. 2. Section 73077 of the Government Code is amended to read:

73077. Unless otherwise specifically provided, each clerk and deputy clerk appointed to a position enumerated in this chapter, where compensation is designated by a schedule of steps, the rate of compensation in case of an original appointment shall be at the rate designated under the first step. After a person completes 13 full bi-weekly pay periods of continuous full-time service in the same classification at the first or second step, he shall advance to the next step. After he has completed 26 full bi-weekly pay periods of continuous service in the same classification at the third or fourth step, he shall advance to the next step.

The anniversary date of an employee shall always be the first day of a bi-weekly pay period. For purposes of determining effective dates of advancement to higher steps, the anniversary date of a person shall be the first day of the bi-weekly pay period the appointment is effective, provided that such appointment is effective in the first five calendar days of that pay period, excluding holidays; otherwise, the anniversary date shall be the first day of the succeeding bi-weekly pay period.

Where the schedule of rates shown for a classification includes the letters s, t, or f, the rate of compensation in case of an original appointment shall be at the rate designated under the second, third, or fourth step, respectively, after which a further increment shall be received as set forth above. With the approval of the Civil Service Commission, original appointments shall be made at a second or higher step where it is necessary in order to secure needed employees.

SEC. 3. Section 73078 of the Government Code is amended to read:

73078. The value in dollars of each bi-weekly salary provided by this chapter shall be at the rates indicated opposite the item classification in the salary ordinance established for municipal court and the county salary ordinance.

SEC. 4. Section 73081 of the Government Code is repealed.

SEC. 5. Section 73084 of the Government Code is amended to read:

73084. (a) In each municipal court established in Alameda County one clerk who shall also be known as the court administrative officer shall be appointed by the judge or judges of each court.

(b) The clerk and administrative officers of the following districts shall receive a bi-weekly salary at the rate set forth for that classification in the ordinance established for municipal courts in Alameda County:

	Ordinance Class No.
Alameda Judicial District	1690M
Berkeley-Albany Judicial District	1691M
Fremont-Newark-Union City Judicial District	1692M
Livermore-Pleasanton Judicial District	1693M
Oakland-Piedmont Judicial District	1694M
San Leandro-Hayward Judicial District	1695M

SEC. 6. Section 73084.1 of the Government Code is amended to read:

73084.1. The clerk and administrative officer of the municipal court for the Alameda Judicial District may appoint the following deputy clerks:

(a) One deputy clerk, municipal courtroom clerk who shall act as chief deputy.

(b) One deputy, senior municipal court clerk.

(c) Three deputy clerks, municipal court clerks.

(d) Two deputy clerks, clerk II.

(e) One deputy clerk, accounting technician.

Not more than one such deputy clerk may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 7. Section 73084.2 of the Government Code is amended to read:

73084.2. The clerk and administrative officer of the municipal court for the Berkeley-Albany Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.

(b) Four deputy clerks, division chiefs.

The clerk and administrative officer may transfer such division chiefs from one division to another regardless of any resulting change in salary as set forth in Section 73086.

(c) Three deputy clerks, supervising municipal court clerk II.

(d) Four deputy clerks, municipal courtroom clerk.

(e) One deputy clerk, supervising municipal court clerk I.

(f) Two deputy clerks, senior municipal court clerk.

(g) Twelve deputy clerks, municipal court clerk.

(h) Ten deputy clerks, clerk II.

(i) One deputy clerk, secretary II.

(j) One deputy clerk, supervising accountant I.

(k) One deputy clerk, account clerk II.

(*l*) One deputy clerk, account clerk I.

Not more than one such deputy clerk may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 8. Section 73084.3 of the Government Code is amended to read:

73084.3. The clerk and administrative officer of the municipal court for the Oakland-Piedmont Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.

(b) Three deputy clerks, division chiefs. The clerk and administrative officer may transfer such division chiefs from one division to another regardless of any resulting change in salary as set forth in subdivision (a) of Section 73086.

(c) One deputy clerk, administrative services assistant II.

(d) Five deputy clerks who shall be assistant division chiefs.

(e) One deputy clerk, calendar coordinator.

(f) Four deputy clerks, supervising municipal court clerk II.

(g) Sixteen deputy clerks, municipal courtroom clerk.

(h) Nine deputy clerks, supervising municipal court clerk I.

(i) Six deputy clerks, senior municipal court clerk.

(j) Fifty-five deputy clerks, municipal court clerk.

(k) Thirty-four deputy clerks, clerk II.

(*l*) One deputy clerk, supervising secretary II.

(m) Three deputy clerks, secretary I.

(n) One deputy clerk, stenographer II.

(o) One deputy clerk, supervising accountant I.

(p) One deputy clerk, information systems analyst.

Not more than six such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 9. Section 73084.4 of the Government Code is amended to read:

73084.4. The clerk and administrative officer of the municipal court for the San Leandro-Hayward Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.

(b) Four deputy clerks, division chiefs.

The clerk and administrative officer may transfer such division chiefs from one division to another regardless of any resulting change in salary as set forth in Section 73086.

(c) Two deputy clerks, supervising municipal court clerk II.

(d) Six deputy clerks, municipal courtroom clerk.

(e) Two deputy clerks, supervising municipal court clerk I.

(f) Two deputy clerks, senior municipal court clerk.

(g) Seventeen deputy clerks, municipal court clerk.

(h) Sixteen deputy clerks, clerk II.

(i) One deputy clerk, secretary I.

(j) One deputy clerk, supervising accountant I
(k) One deputy clerk, account clerk II.

Not more than three such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 10. Section 73084.5 of the Government Code is amended to read:

73084.5. The clerk and administrative officer of the municipal court for the Fremont-Newark-Union City Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk
(b) Three deputy clerks, municipal courtroom clerk.
(c) Three deputy clerks, supervising municipal court clerk I.
(d) One deputy clerk, senior municipal court clerk.
(e) Seven deputy clerks, municipal court clerk.
(f) Four deputy clerks, clerk II.
(g) One deputy clerk, stenographer II
(h) One deputy clerk, accounting technician
(i) One deputy clerk, account clerk II

Not more than three such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities

SEC. 11. Section 73084.6 of the Government Code is amended to read:

73084.6. The clerk and administrative officer of the municipal court for the Livermore Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk
(b) One deputy clerk, supervising municipal court clerk II.
(c) Two deputy clerks, municipal courtroom clerk.
(d) Three deputy clerks, supervising municipal court clerk I.
(e) One deputy clerk, senior municipal court clerk.
(f) Eight deputy clerks, municipal court clerk.
(g) Two deputy clerks, clerk II

SEC. 12. Section 73085 of the Government Code is amended to read.

73085. Chief deputy clerks of the following districts shall receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts:

	Ordinance Class No.
Oakland-Piedmont Judicial District	1675M
Hayward-San Leandro Judicial District	1676M
Fremont-Newark-Union City Judicial District	1677M
Berkeley-Albany Judicial District	1678M
Livermore-Pleasanton Judicial District	1679M

SEC. 13. Section 73086 of the Government Code is amended to

read:

73086. Deputy clerks, division chiefs of the following districts shall receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts:

	Ordinance Class No.
Oakland-Piedmont Judicial District, criminal	1680M
Oakland-Piedmont Judicial District, civil	1681M
Oakland-Piedmont Judicial District, traffic	1682M
San Leandro-Hayward Judicial District, division chief	1684M
Berkeley-Albany Judicial District, division chief	1684M

SEC. 14. Section 73086.5 of the Government Code is amended to read:

73086.5. The following personnel of the Oakland-Piedmont Judicial District shall receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts:

	Ordinance Class No.
Deputy clerks, assistant division chief	1667M
Deputy clerks, calendar coordinator	1668M

SEC. 15. Section 73087 of the Government Code is amended to read:

73087. (a) Deputy clerks in each municipal court in Alameda County shall receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts as follows:

	Ordinance Class No
Deputy clerk, municipal court clerk	1615
Deputy clerk, senior municipal court clerk	1620
Deputy clerk, supervising municipal court clerk I	1655M
Deputy clerk, supervising municipal court clerk II	1656M
Deputy clerk, municipal courtroom clerk	1660

(b) Deputy clerks in each municipal court in Alameda County shall receive a bi-weekly salary at the rate set forth for that item number classification in the Alameda County ordinance as follows.

	Ordinance Class No
Deputy clerk, account clerk I	1305
Deputy clerk, account clerk II	1310
Deputy clerk, accounting technician	1315M
Deputy clerk, administrative services assistant I	0220M
Deputy clerk, administrative services assistant II	0222M

Deputy clerk, clerk I ... 1115
Deputy clerk, clerk II . 1120
Deputy clerk, information systems analyst . . 0419M
Deputy clerk, secretary I . . 1215
Deputy clerk, secretary II. . 1220M
Deputy clerk, stenographer II . . 1210
Deputy clerk, supervising accountant I . . 0133M
Deputy clerk, supervising secretary I . . 1216M
Deputy clerk, supervising secretary II . . 1221M

(c) Notwithstanding any other provisions of this code, the rules governing flexibly staffed classifications, the administration of the pay plan and additional compensation shall be the same as that for employees of Alameda County.

SEC 16. Section 73088 of the Government Code is amended to read:

73088. All deputy clerks who are required by the clerk to work a "night shift" on each regular working day of a month shall be allowed additional compensation in addition to their regular compensation otherwise provided for in this article, such compensation for each such shift to be at the rate of 5 percent of the pay for his position For the purposes of this section, a "night shift" is defined as meaning all time worked by a person required by the clerk to work at least five-eighths (⅝) of his normal daily tour of duty after 4:30 p m or before 8 a.m.

SEC. 17. Section 73089 of the Government Code is amended to read:

73089. With the approval of the board of supervisors, judges of each municipal court concerned within Alameda County may establish such additional titles and pay rates as are required and may appoint such additional deputy clerks, officers, assistants and other employees as deemed necessary for the powers conferred by law upon the court and its members. Rates of compensation of the clerk and administrator officers, deputy clerks, officers, assistants and other employees may be adjusted by joint action and approval of the board of supervisors and the judges in each respective municipal court within the county.

If the board of supervisors provides by ordinance or resolution for any increase in the number or rate of compensation of any municipal court personnel pursuant to this section, such increase shall be effective only until January 1, 1980, and shall be effective at the same time and in the same manner as such increases for Alameda County employees generally.

SEC. 18. Section 73091 of the Government Code is amended to read:

73091. In addition to the positions created in this article, there are hereby created the following positions to be filled only while higher positions remain unfilled and if persons in a lower grade fail to qualify or receive an appointment to upgraded or newly created positions

provided in this article:

(a) One assistant division chief, supervising municipal court clerk II, or municipal courtroom clerk position for each unfilled division chief position.

(b) One supervising municipal court clerk I or senior municipal court clerk position for each unfilled municipal courtroom clerk position or supervising municipal court clerk II.

(c) One municipal court clerk position for each unfilled supervising municipal court clerk I or senior municipal court clerk position.

(d) One clerk II position for each unfilled municipal court clerk position.

(e) One stenographer I position for each unfilled stenographer II position.

(f) One secretary I position for each unfilled secretary II position.

(g) One secretary II position for each unfilled supervising secretary II position.

Notwithstanding any other provisions of this code, all unfilled classified positions other than those above may be filled by the next lower class as listed in the salary ordinance established for municipal courts and the Alameda County salary ordinance.

SEC. 19. Section 73095 of the Government Code is amended to read:

73095. The judges of the Oakland-Piedmont Municipal Court may appoint one official court interpreter. The individual appointed pursuant to this section shall hold office at the pleasure of the judges and shall receive an annual salary including additional compensation for bilingual skills, and all other benefits, in the same amount as are provided for the class of municipal court clerk of the Oakland-Piedmont Municipal Court.

SEC. 20. Section 73096 of the Government Code is amended to read:

73096. Official reporters of municipal courts in Alameda County, in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court, shall receive:

(a) Seventy-eight dollars and sixteen cents ($78.16) a day for the days they actually are on duty under order of the court, or

(b) A minimum payment of thirty-nine dollars and eight cents ($39.08) for serving four hours or less a day, plus an hourly rate of nine dollars and seventy-seven cents ($9.77) for each hour served in excess of four hours, up to the maximum amount specified in subdivision (a), provided, that not to exceed three official reporters in a judicial district having three or more judges shall each receive an annual salary, vacation leave and sick leave, in the same amounts as the official reporters of the superior court in Alameda County.

Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are

made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date

SEC 21. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties Accordingly, this legislation affecting Alameda County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county

SEC. 22 If any provision of Section 1 or 20 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of Sections 1 and 20 of this act shall be void, and to this end the provisions of Sections 1 and 20 of this act are inseverable

SEC 23. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity which desired legislative authority to act to carry out the program specified in this act

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CHAPTER 1076

An act to amend Sections 76018 and 76034 of the Government Code, relating to jurors

[Became law without Governor's signature September 26 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1 Section 76018 of the Government Code is amended to read

76018 In a county of the 18th class, trial jurors shall receive five dollars ($5) per day for the first 15 days of actual service and ten dollars ($10) per day thereafter

Each grand juror shall receive five dollars ($5) per day for each day's attendance upon regularly called grand jury meetings,

committee meetings, or when appointed by the foreman of the grand jury to make individual investigations.

Trial jurors and grand jurors shall receive mileage reimbursement at the same rate specified for county employees.

SEC. 2 Section 76034 of the Government Code is amended to read:

76034 In a county of the 34th class, grand jurors and trial jurors in the superior and justice courts shall receive ten dollars ($10) for each day's attendance, and fourteen cents ($0.14) for each mile actually and necessarily traveled in attending sessions of the grand jury or court, from their residences to the place of service, both ways, to be allowed but once during any one session of the court or grand jury. Jurors in coroner's inquests shall receive three dollars ($3) for each day's attendance, and twenty cents ($0.20) for each mile actually and necessarily traveled from their residences to the place of service, in going only. The fees of trial jurors in civil cases shall be paid by the litigants, as other costs are paid.

SEC 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act

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CHAPTER 1077

An act to amend Sections 74905, 74906, 74907, 74908, 74909, and 74912 of the Government Code, relating to courts.

[Became law without Governor's signature September 26, 1977
Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 74905 of the Government Code is amended to read:

74905 (a) There shall be one clerk of the Ventura County Municipal Court, who shall be known as the court executive officer and who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The court executive officer shall receive the monthly compensation from one thousand eight hundred dollars ($1,800) to two thousand nine hundred dollars ($2,900).

(b) There shall be one assistant court executive officer and assistant clerk of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The assistant court executive officer and assistant clerk shall receive the monthly compensation from one thousand five hundred dollars ($1,500) to two thousand four hundred dollars

($2,400)

(c) The rate of monthly compensation to be paid to the court executive officer and the assistant court executive officer and assistant clerk within the compensation ranges set forth in subdivisions (a) and (b) shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court at an amount equal to that paid county employees with comparable experience and responsibility

SEC. 1.4. Section 74906 of the Government Code is amended to read:

74906. (a) There shall be one Marshal of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The marshal shall have control and supervisorial responsibility over the personnel within the marshal's office The marshal shall receive the monthly compensation from one thousand nine hundred dollars ($1,900) to two thousand nine hundred dollars ($2,900)

(b) There shall be one Assistant Marshal of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court The assistant marshal shall receive monthly compensation from one thousand seven hundred dollars ($1,700) to two thousand seven hundred dollars ($2,700).

(c) The rate of monthly compensation to be paid the marshal and assistant marshal within the compensation ranges set forth in subdivisions (a) and (b), shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court at an amount equal to that paid county employees with comparable experience and responsibility

SEC. 1.8. Section 74907 of the Government Code is amended to read:

74907 The court executive officer may appoint the following positions which shall receive biweekly compensation specified in Section 74909·

(a) Four chief deputy municipal court clerks

(b) Six deputy municipal court clerks IV

(c) Sixteen deputy municipal court clerks III.

(d) Twenty-two deputy municipal court clerks II,

however, one deputy municipal court clerk II position shall be filled by one former incumbent deputy municipal court clerk V, who shall receive a salary not less than eight hundred thirty-eight dollars ($838) per month until such time as the salary range of the deputy municipal court clerk II as herein described reaches said incumbent salary of eight hundred thirty-eight dollars ($838).

(e) Fifteen deputy municipal court clerks I

(f) One deputy municipal court legal process clerk.

(g) Four deputy municipal court clerk interpreters

(h) Three municipal court secretaries

(i) One data entry operator III.

(j) Three data entry operators II

(k) Two data entry operators I.
(l) Three clerks.
(m) One administrative aide.
(n) One accounting technician.
(o) One microfilm technician I.

SEC. 2. Section 74908 of the Government Code is amended to read:

74908. The Marshal of the Ventura County Municipal Court may appoint the following positions which shall receive biweekly compensation specified in Section 74909:

(a) Two lieutenants.
(b) Four sergeants.
(c) Thirty deputy marshals.
(d) Five senior marshal's process clerks.
(e) Three marshal's process clerks.
(f) One senior secretary.
(g) One marshal's radio dispatcher.
(h) Such deputies who shall be keepers as may be reasonably required pursuant to law at the fee allowed by law for keeping property.

The occupants of positions of senior marshal's process clerk and marshal's process clerk shall, when required, be assigned to additional duties as matron, and during the period of such assignment shall receive additional compensation.

SEC. 3 Section 74909 of the Government Code is amended to read:

74909 (a) The following biweekly salary schedule, which is consistent with the Salary Ordinance of the County of Ventura, shall apply to the personnel of the Ventura County Municipal Court.

Municipal court classification	Biweekly rate
Chief deputy municipal court clerk	$574.46–741 10
Deputy municipal court clerk IV	460.00–592.80
Deputy municipal court clerk III	416 80–536.80
Deputy municipal court clerk II	360.80–464.00
Deputy municipal court clerk I	301.60–402.40
Deputy municipal court clerk legal process clerk	387.20–499.20
Deputy municipal court clerk interpreter	360.80–464.00
Data entry operator III	359.20–463 20
Data entry operator II	317.60–409.60
Data entry operator I	272.00–346.40
Municipal court secretary	407 20–524.80
Clerk	257.60–343.20
Administrative aide	434.24–527 99
Accounting technician	472 00–608.80
Microfilm technician I	306.40–396.80
Municipal court/marshal classification	**Biweekly rate**
Lieutenant	$850.40–1,107.63
Sergeant	663.52–864.08
Deputy marshal	533.10–728.08
Senior secretary	387 20–499 20

Senior marshal's process clerk	387.20–499.20
Marshal's process clerk	335.20–432.00
Marshal's radio dispatcher	360.80–464.80

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply.

SEC. 4. Section 74912 of the Government Code is amended to read:

74912. (a) Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such classifications, shall be adjusted an equivalent amount. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service. Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date such salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Municipal court classification	County classification
Chief deputy municipal court clerk	Chief superior court clerk
Deputy municipal court clerk IV	Superior court clerk IV
Deputy municipal court clerk III	Superior court clerk III
Deputy municipal court clerk II	Superior court clerk II
Deputy municipal court clerk I	Superior court clerk I
Deputy municipal court legal process clerk	Legal process clerk
Data entry operator III	Data entry operator III
Data entry operator II	Data entry operator II
Data entry operator I	Data entry operator I
Municipal court secretary	Superior court secretary
Clerk	Clerk
Administrative aide	Administrative aide
Accounting technician	Accounting technician
Microfilm technician I	Microfilm technician I

Municipal court/marshal classification	County classification
Lieutenant	Sheriff's lieutenant
Sergeant	Sheriff's sergeant
Deputy marshal	Deputy sheriff
Senior secretary	Senior secretary
Senior marshal's process clerk	Legal process clerk
Marshal's process clerk	Civil process clerk
Marshal's radio dispatcher	Radio dispatcher

In order to carry out the intent of Section 74912 herein, whenever the salary of the class of deputy municipal court clerk I is adjusted as described above, the salary of deputy municipal court clerk interpreter shall be adjusted an equivalent number of ranges or steps as necessary on the schedule.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act

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CHAPTER 1078

An act to add Section 24306.5 to the Government Code, relating to county offices.

[Became law without Governor's signature September 26, 1977. Filed with Secretary of State September 26, 1977.]

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

SECTION 1. Section 24306.5 is added to the Government Code, to read:

24306.5. In any county with a population of over 1,350,000 and not over 1,420,000 as determined by the 1970 federal decennial census, the board of supervisors may consolidate pursuant to ordinance or charter two or more offices, including the office of health officer, in order to integrate the delivery of health-related services within the county. The occupant of the consolidated office need not possess any of the particular qualifications required of the occupant of any of the separate offices which are consolidated if:

(a) No qualification applies to all of the offices consolidated; and

(b) The board finds that sufficient personnel possessing the particular qualifications required are employed in the consolidated office to assure that decisions made by the occupant of the office are based upon competent professional advice. The enforcement duties described in Sections 452 and 458 of the Health and Safety Code shall be discharged by a licensed physician and surgeon with the title of

health officer. The health officer's enforcement responsibility is limited to decisions requiring technical medical judgments.

This section does not permit the occupant of such consolidated office to practice any profession or trade for the practice of which a license, permit or registration is required without such license, permit, or registration

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CHAPTER 1079

An act to amend Sections 13402, 14902, 17052.5, 17059.5, 17063, 17064 5, 17072, 17122, 17138, 17139, 17154, 17202, 17203, 17207, 17209, 17211.7, 17213, 17214, 17214 2, 17216 2, 17226, 17233, 17235, 17240, 17258, 17266, 17283, 17285, 17293, 17296, 17361, 17416, 17461, 17503, 17511, 17512, 17530, 17530 1, 17530 4, 17532, 17534, 17571, 17671, 17675, 17731, 17736, 17746, 17771, 17855, 17858, 17863, 17866, 17881, 17882, 17883, 17913, 17921, 18046, 18051 1, 18052, 18090 2, 18161, 18201, 18211, 18213, 18215, 18217, 18681 1, 18807, 23701a, 23701d, 23704, 23707, 23708, 23735, 23772, 24354.2, 24357.2, 24359, 24372, 24413, 24422, 24422.5, 24434, 24514, 24562, 24662, and 24949 2 of, to add Sections 13648, 13649, 13801, 17052 6, 17063.2, 17063.3, 17137 5, 17159, 17211 4, 17214 5, 17228, 17229.5, 17237, 17237 5, 17241, 17299.2, 17299 3, 17299.4, 17445, 17595, 17599, 17599 1, 17747, 17774.6, 17775, 17821, 17856, 17859 1, 17868, 18047, 18104, 18113, 18191, 18212, 18221, 18802.8, 18802 9, 19289 5, 23404, 23701t, 23704 5, 23704 6, 23734b, 23734c, 23740, 24353 1, 24357 6, 24380, 24381, 24442, 24561, 24652, 24686, and 24989, to, to add Chapter 7 (commencing with Section 14051) to Part 8 of Division 2 of and Part 9 5 (commencing with Section 16700) to Division 2 of, to repeal Sections 13648, 13801, 17053, 18212, 17053, 17262, 17445, 17775, 17776, 17777, 17821, 17856, 18191, 18212, 24311, and 24561 of, and to repeal Chapter 7 (commencing with Section 14051) of Part 8 of Division 2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy

[Approved by Governor September 26, 1977 Filed with Secretary of State September 26, 1977]

The people of the State of California do enact as follows

SECTION 1 This act shall be known as, and may be cited as, the Tax Reform Act of 1977

SEC 2 It is the intent of the Legislature to conform provisions of California law, where appropriate, to the changes contained in the Federal Tax Reform Act of 1977

SEC 3 Section 13402 of the Revenue and Taxation Code is amended to read

13402 The tax imposed by this part shall be the amount equal to the excess of a tentative tax computed upon the sum of the clear market value of the property transferred, but only upon that portion

in excess of the exemptions allowable on the date of the transferor's death, and at the rates which are then in effect, and the total amount of the net gifts (within the meaning of Section 15118) made by the decedent during lifetime, other than gifts which are subject to this part, over the aggregate amount of the tax payable under Part 9 (commencing with Section 15101) of this division with respect to gifts made by the decedent.

SEC. 4. Section 13648 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 13648 is added to the Revenue and Taxation Code, to read:

13648. The amount of any transfer which is subject to this part shall be increased by the amount of any tax paid under Part 9 (commencing with Section 15101) of this division by the decedent on such transfer

SEC. 6. Section 13649 is added to the Revenue and Taxation Code, to read:

13649. It is hereby declared to be the intent and purpose of this part to tax every transfer made in lieu of, or to avoid, the passing of property by will or the laws of succession

SEC. 7. Section 13801 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 13801 is added to the Revenue and Taxation Code, to read:

13801. (a) Property of the clear market value of sixty thousand dollars ($60,000) transferred to the spouse of the decedent is exempt from the tax imposed by this part.

(b) Property of the clear market value of twelve thousand dollars ($12,000) transferred to a minor child of the decedent is exempt from the tax imposed by this part

(c) Property of the clear market value of an amount equal to five thousand dollars ($5,000) multiplied by the excess of 21 over the age (in years) of a child of the decedent who is under the age of 18 at the date of death of the decedent, provided the decedent does not have a surviving spouse and that such child, immediately after the death of the decedent, has no known parent, is exempt from the tax imposed by this part

(d) Property of the clear market value of five thousand dollars ($5,000) transferred to any other class A transferee is exempt from the tax imposed by this part.

SEC. 9. Chapter 7 (commencing with Section 14051) of Part 8 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 10. Chapter 7 (commencing with Section 14051) is added to Part 8 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 7. PREVIOUSLY TAXED PROPERTY CREDIT

14051. There shall be allowed to each class A transferee an inheritance tax credit where a tax has been on a prior transfer from

a prior decedent to a present decedent under the following conditions and limitations:

(a) (1) The present decedent must have been a class A transferee of the prior decedent,

(2) The present decedent must have died within five years from the date of death of the prior decedent; and

(3) That no tax was levied against either estate under Section 13441 or 13442.

(b) The amount of the tax credit allowed a class A transferee is a fraction of the inheritance tax charged to the present decedent in the estate of the prior decedent.

The numerator of this fraction is the clear market value of all transfers subject to tax under this part which the class A transferee receives from the present decedent.

The denominator of this fraction is the clear market value of all transfers subject to tax under this part made by the present decedent.

(c) For the purposes of this section "property subject to tax under this part" includes the value of the property exempted under Article 1 (commencing with Section 13801), Article 3 (commencing with Section 13821), Article 5 (commencing with Section 13861), and Article 6 (commencing with Section 13871) of Chapter 5 of this part, and Sections 13694, 13695, 13696 and 13697.

SEC. 11. Section 14902 of the Revenue and Taxation Code is amended to read.

14902. The money in the Inheritance Tax Fund is hereby appropriated as follows:

(a) To pay the refunds authorized by this part and by Part 9.5 (commencing with Section 16700) of this division

(b) The balance of the money in the fund shall, on order of the Controller, be transferred to the State General Fund

SEC. 12. Part 9.5 (commencing with Section 16700) is added to Division 2 of the Revenue and Taxation Code, to read

PART 9.5. GENERATION SKIPPING TRANSFER TAX

CHAPTER 1. DEFINITIONS

16700. This part is known as the "Generation Skipping Transfer Tax Law."

16701. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part

16702. "Generation skipping transfer" includes every transfer subject to the tax imposed under Chapter 13 of Subtitle B of the Internal Revenue Code of 1954, as amended, where the original transferor is a resident of the State of California at the date of original transfer, or the property transferred is real or personal property in California

16703. "Original transferor" means any grantor, donor, trustor or

testator who by grant, gift, trust or will makes a transfer of real or personal property that results in a federal generation skipping transfer tax under applicable provisions of the Internal Revenue Code.

16704. "Federal generation skipping transfer tax" means the tax imposed by Chapter 13 of Subtitle B of the Internal Revenue Code of 1954, as amended.

CHAPTER 2. IMPOSITION OF THE TAX

Article 1. Tax Imposed

16710 (a) A tax is hereby imposed upon every generation skipping transfer in an amount equal to the amount allowable as a credit for state legacy taxes under Section 2602 of the Internal Revenue Code

(b) If any of the property transferred is real property in another state or personal property having a business situs in another state which requires the payment of a tax for which credit is received against the federal generation skipping transfer tax, any tax due pursuant to subdivision (a) of this section shall be reduced by an amount which bears the same ratio to the total state tax credit allowable for federal generation skipping transfer tax purposes as the value of such property taxable in such other state bears to the value of the gross generation skipping transfer for federal generation skipping transfer tax purposes.

Article 2. Returns

16720. Every person required to file a return reporting a generation skipping transfer under applicable federal statute and regulations shall file a return with the State Controller on or before the last day prescribed for filing the federal return

There shall be attached to the return filed with the Controller a duplicate copy of the federal return.

16721. The return shall contain such information and be in such form as the Controller may prescribe and shall state the amount of tax due under the provisions of this part.

The return shall contain, or be verified by, a written declaration that it is made under the penalties of perjury.

16722 If, after the filing of a duplicate return, the federal authorities shall increase or decrease the amount of the federal generation skipping transfer tax, an amended return shall be filed with the State Controller showing all changes made in the original return and the amount of increase or decrease in the federal generation skipping transfer tax.

Article 3 Deficiency Determination

16730 In a case not involving a false or fraudulent return or failure to file a return, if the Controller determines at any time after the tax is due, but not later than four years after the return is filed, that the tax disclosed in any return required to be filed by this part is less than the tax disclosed by his examination, a deficiency shall be determined; provided that in a case where the federal generation skipping transfer tax has been increased upon audit of the federal return, the determination may be made at any time within one year after the federal generation skipping transfer tax becomes final

For the purposes of this section, a return filed before the last day prescribed by law for filing such return shall be considered as filed on such last day

16731 In the case of a false or fraudulent return or failure to file a return, the Controller may determine the tax at any time.

16732. In any case in which a deficiency has been determined in an erroneous amount, the Controller may, within three years after the erroneous determination was made, set aside the determination or issue an amended determination in the correct amount

16733. The Controller shall give notice of the deficiency determined, together with any penalty for failure to file a return or to show any transfer in the return filed, by personal service or by mail to the person filing the return at the address stated in the return, or, if no return is filed, to the person liable for the tax. Copies of the notice of deficiency may in like manner be given to such other persons as the Controller deems advisable.

16734. In any case in which it is claimed that a deficiency has been determined in an erroneous amount, any person who is liable for the tax may, within three years after the determination was made, bring an action against the state in the superior court having jurisdiction to have the tax modified in whole or in part.

CHAPTER 3. PAYMENT OF TAX

Article 1. Generally

16750. The person liable for payment of the federal generation skipping transfer tax shall be liable for the tax imposed by this part.

16751. The tax imposed by this part is due upon a taxable distribution or a taxable termination as determined under applicable provisions of the federal generation skipping transfer tax.

16752. The tax becomes delinquent from and after the last day allowed for filing a return for the generation skipping transfer.

16753. The tax shall be paid to the State Controller by remittance payable to the State Treasurer

Article 2. Interest and Penalties

16760. If the tax is not paid before it becomes delinquent, it bears interest thereafter and until it is paid at the rate of 12 percent per annum.

16761 Every payment on the tax imposed by this part is applied, first, to any interest due on the tax, and then, if there is any balance, to the tax itself

CHAPTER 4. COLLECTION OF TAX

Article 1 Suit for Tax

16800. The state may enforce its claim for any tax imposed by this part and enforce the lien of the tax by a civil action in any court of competent jurisdiction against any person liable for the tax or against any property subject to the lien

Article 2. Lien of Tax

16810. The tax imposed by this part is a lien in the manner prescribed in Section 16063 upon the property transferred from the time the generation skipping transfer is made and until the expiration of 10 years from and after the time a deficiency determination is issued pursuant to the provisions of this part or until the tax is paid, whichever is earlier.

Article 3. Writ of Execution

16820 At any time after a tax imposed by this part is delinquent, the Controller may have a writ of execution issued for the enforcement of any judgment rendered pursuant to this part in respect to the tax.

16821. The writ shall be executed against any property of any person liable for the tax, or against any property subject to the lien of the tax.

Article 4. Miscellaneous

16830. Proceedings for the collection of any tax imposed by this part may be commenced at any time after the tax is due and within 10 years from and after the time a deficiency determination is issued pursuant to the provisions of this part

CHAPTER 5. REFUNDS

Article 1. When Allowable

16850. If the Controller finds that there has been an overpayment of tax by a taxpayer for any reason, the amount of the overpayment shall be refunded to the taxpayer.

16851 No refund shall be allowed or made after four years from the last day prescribed for filing the return or after one year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period a claim therefor is filed by the taxpayer, or unless before the expiration of such period the Controller makes a refund. A claim for refund may be filed in such form as the Controller may prescribe, and the Controller shall allow or deny the claim, in whole or in part, and mail a notice of such determination to the claimant at the address stated on the claim.

16852. Any person who has paid any tax imposed by this part which later is determined by judgment to have been in excess of the amount legally due, or an heir, the executor of the will, or the administrator of the estate of any such person, but not his assignee, is entitled to a refund in the amount of the excess paid within one year after the judgment becomes final.

Article 2. Suit for Refund

16860. Within four years from the last date prescribed for filing the return or within one year from the date the tax was paid, or within 90 days after a determination under Section 16851 is issued, whichever is later, any person who has paid the tax may bring an action against the state in the superior court having jurisdiction to have the tax refunded, in whole or in part.

16861 Process in the action directed to the state shall be served on the Controller.

16862. After a hearing in which the Controller shall represent the state, the court shall review the Controller's appraisement and determination of tax, and, as the case may require, shall by judgment modify or confirm the appraisement or determination in whole or in part

Article 3. Interest on Refunds

16870. Interest shall be allowed and paid upon any overpayment of any tax, if the overpayment was not made because of an error or mistake on the part of the taxpayer, at the rate of 12 percent per annum from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller

16871. In the event an overpayment results from the judgment of any court modifying the amount of tax previously determined to be due, interest shall be allowed at the rate of 12 percent per annum upon the amount of the overpayment, from the date of the payment

or collection thereof to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

CHAPTER 6. COURT JURISDICTION AND PROCEDURE GENERALLY

Article 1 Court Jurisdiction

16880 The superior court of the county in which a transferor resident of this state resided at the date of any generation skipping transfer made by him has jurisdiction to hear and determine all questions relative to any tax imposed by this part on the gift.

16881. In the case of a transferor who was not a resident of this state at the date of any generation skipping transfer made by him, the superior court of the county in which any of the transferor's real property is situated, or, if he has no real property in this state, the superior court of the county in which any of his personal property is situated, has jurisdiction to hear and determine all questions relative to any tax imposed by this part. If the transferor has property in more than one county, the superior court of any such county whose jurisdiction is first invoked has exclusive jurisdiction.

Article 2. Court Procedure Generally

16890. Except as otherwise provided in this part, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments and execution of judgments, so far as applicable, govern all proceedings under this part.

CHAPTER 7. ADMINISTRATION

Article 1. Generally

16900. This part is administered by the State Controller through the Inheritance Tax Department.

16901. The Controller may employ such assistants, including attorneys, as may from time to time be necessary for the proper administration of this part.

16902. The Controller may make and enforce rules and regulations relating to the administration and enforcement of this part, and may prescribe the extent, if any, to which any ruling or regulation shall be applied without retroactive effect.

16903. Under rules and regulations upon which the Controller and Franchise Tax Board may agree, the Franchise Tax Board shall cooperate in the enforcement of this part by reporting to the Controller any changes in the gross or net income of any person, or any other information obtained in the enforcement of any act administered by the Franchise Tax Board which may in any way indicate that a transfer has been made which is taxable under this

part

16904. Under rules and regulations upon which the Controller and State Board of Equalization may agree, the State Board of Equalization shall cooperate in the enforcement of this part by reporting to the Controller any information obtained in the enforcement of any act administered by the State Board of Equalization which may in any way indicate that a transfer has been made which is taxable under this part.

16905. The Controller on his own motion may appear in behalf of the state in any and all generation skipping transfer tax matters before any court.

Article 2. Inspection of Records

16910. All information and records acquired by the Controller or any of his employees are confidential in nature, and, except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, shall not be disclosed by any of them

Except insofar as may be necessary for the enforcement of this part or as may be permitted by this article, any former or incumbent Controller or employee of the Controller who discloses any information acquired by any inspection or examination made pursuant to this article is guilty of a felony, and upon conviction shall be imprisoned in the state prison.

16911. The Controller may allow any local, state, or federal official charged with the administration of any tax law to examine his generation skipping transfer tax records under such rules and regulations as he may prescribe

CHAPTER 8. DISPOSITION OF PROCEEDS

16950. All money due under this part shall be paid to the State Controller by remittance payable to the State Treasurer The amounts received shall be deposited, after clearance of remittance, in the State Treasury to the credit of the Inheritance Tax Fund

SEC. 13. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)) an amount equal to 10 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of solar energy devices on premises in California which are owned and controlled by the taxpayer at the time of installation The credit shall be taken in the year of installation and shall not exceed one thousand dollars ($1,000).

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any

(c) The basis of any device for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or

reduced by the amount of the credit, whichever results in the lesser basis.

(d) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for dependent care services expenses provided for in Section 17052.6, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001)

(f) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part

(g) The term "solar energy device" means equipment—

(1) Which uses solar energy to heat or cool or produce electricity;

(2) The original use of which commences with the taxpayer; and

(3) Which has a useful life of at least three years.

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

SEC 14. Section 17052.6 is added to the Revenue and Taxation Code, to read:

17052.6. (a) (1) In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subdivision (c) (1)), there shall be allowed as a credit against the "net tax" (as defined in paragraph (2)) imposed by this part for the taxable year an amount equal to 3 percent of the employment related expenses (as defined in subdivision (c) (2)) paid by such individual during the taxable year.

(2) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for solar energy devices provided for in Section 17052.5, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(3) The credit provided by paragraph (1) shall be reduced by 2 percent for each one hundred dollars ($100) of adjusted gross income in excess of fifteen thousand dollars ($15,000).

(b) For purposes of this section—

(1) The term "qualifying individual" means—

(A) A dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a credit under Section 17054(c),

(B) A dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

(C) The spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

(2) (A) The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with

respect to the taxpayer

(i) Expenses for household services, and

(ii) Expenses for the care of a qualifying individual.

(B) Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A)

(c) The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(1) Two thousand dollars ($2,000) if there is one qualifying individual with respect to the taxpayer for such taxable year, or

(2) Four thousand dollars ($4,000) if there are two or more qualifying individuals with respect to the taxpayer for such taxable year

(d) (1) Except as otherwise provided in this subdivision, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(A) In the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

(B) In the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year

(2) In the case of a spouse who is a student or a qualified individual described in subdivision (c)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

(A) One hundred sixty-six dollars ($166) if subdivision (d)(1) applies for the taxable year, or

(B) Three hundred thirty-three dollars ($333) if subdivision (d)(2) applies for the taxable year In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month

(e) For purposes of this section—

(1) An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

(2) If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subdivision (a) only if the taxpayer and his spouse file a joint return for the taxable year.

(3) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married

(4) If—

(A) An individual who is married and who files a separate return—

(i) Maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(ii) Furnishes over half of the cost of maintaining such household during the taxable year, and

(B) During the last six months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married

(5) If—

(A) A child (as defined in Section 17054(c)(4)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

(B) Such child is in the custody of one or both of his parents for more than one half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subdivision (c)(1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent

(6) (A) Except as provided in subparagraph (B), no credit shall be allowed under subdivision (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in subdivision (a) through (h), inclusive, of Section 17056(a) (relating to definition of dependent) or to a dependent described in subdivision (i) of such section.

(B) Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a credit under Section 17054(c) (relating to credit for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of Section 3121(b) of the Internal Revenue Code of 1954.

(7) The term "student" means an individual who during each of five calendar months during the taxable year is a full-time student at an educational organization.

(8) The term "educational organization" means an educational organization described in Section 17215.1(b)(2).

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

SEC 15. Section 17053 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 17059.5 of the Revenue and Taxation Code is amended to read:

17059.5. (a) If—

(1) A child (as defined in Section 17054(c)(4)) receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance, or who are separated under a written separation agreement, and

(2) Such child is in the custody of one or both of his parents for more than one-half of the calendar year,

such child shall be treated, for purposes of Section 17056, as receiving over half of his support during the calendar year from the parent having custody for a greater portion of the calendar year unless he is treated, under the provisions of subdivision (b), as having received over half of his support for such year from the parent not having custody.

(b) The child of parents described in subdivision (a) shall be treated as having received over half of his support during the calendar year from the parent not having custody if—

(1) (A) The decree of divorce or of separate maintenance, or a written agreement between the parents applicable to the taxable year beginning in such calendar year, provides that the parent not having custody shall be entitled to any credit allowable under Section 17054 for such child, and

(B) Such parent not having custody provides at least six hundred dollars ($600) for the support of such child during the calendar year, or

(2) (A) The parent not having custody provides one thousand two hundred dollars ($1,200) or more for the support of such child (or if there is more than one such child, one thousand two hundred dollars ($1,200) or more for each of such children) for the calendar year, and

(B) The parent having custody of such child does not clearly establish that he provided more for the support of such child during the calendar year than the parent not having custody.

For the purposes of this subdivision, amounts expended for the support of a child or children shall be treated as received from the parent not having custody to the extent that such parent provided amounts for such support

(c) If a taxpayer claims that subdivision (b)(2) applies with respect to a child for a calendar year and the other parent claims that subdivision (b)(2)(A) is not satisfied or claims to have provided more for the support of such child during such calendar year than the taxpayer, each parent shall be entitled to receive, under regulations to be prescribed by the Franchise Tax Board, an itemized statement of the expenditures upon which the other parent's claim of support is based.

(d) The provisions of this section shall not apply in any case where over half of the support of the child is treated as having been

received from a taxpayer under the provisions of Section 17058.

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

SEC. 17. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2)

(b) With respect to each "Section 18212 property" (as defined in Section 18214), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 17211.7) for which the taxpayer has held the property.

(c) With respect to each item of Section 18211 property (as defined in Section 18214) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to the transfer of a share of stock pursuant to the exercise of a qualified stock option (as defined in subdivision (b) of Section 17532) or a restricted stock option (as defined in subdivision (b) of Section 17534), the amount by which the fair market value of the share at the time of exercise exceeds the option price.

(e) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year)

(f) An amount equal to one-half of the amount by which net long-term capital gain exceeds the net short-term capital loss for the taxable year

(g) Subdivision (a) of this section, relating to excess investment interest, shall apply only to taxable years beginning before January 1, 1972

(h) Subdivision (f) of this section shall apply only to taxable years beginning after December 31, 1970, and ending on or before November 30, 1972. For taxable years beginning after December 31, 1971, the amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the

taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162 5 for the same taxable year

(i) The amount of net farm loss in excess of fifteen thousand dollars ($15,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be seven thousand five hundred dollars ($7,500) in lieu of fifteen thousand dollars ($15,000).

(j) The excess of the intangible drilling and development costs described in Section 17283 (c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs.

(k) For taxable years beginning on or after January 1, 1978, if Section 18151 of this code allows 25 percent of the amount of the net capital gain or loss as a deduction from gross income, capital gains from the sale of farm real property shall not be items of tax preference

For the purpose of this subdivision, farm real property shall mean property which is essentially undeveloped and has been utilized for the production of agricultural commodities for five years preceding the year of sale

SEC. 18. Section 17063 2 is added to the Revenue and Taxation Code, to read

17063 2. (a) For purposes of subdivision (a) of Section 17063, the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

(1) Deductions allowable in arriving at adjusted gross income,

(2) The standard deduction provided by Section 17171,

(3) The deduction for medical, dental, etc., expenses provided by Sections 17253 to 17258, inclusive, and

(4) The deduction for casualty losses described in Section 17206(b) (3) exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year.

(b) In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

(1) Under Section 17734 (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under Section 17762(a) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends),

(2) Under Section 17735, 17736, 17751(a), 17761(a) or 17831 to 17838, inclusive; or

(3) For costs paid or incurred in connection with the administration of the trust or estate shall, for purposes of subdivision (a), be treated as a deduction allowable in arriving at an adjusted

gross income.

SEC. 19 Section 17063.3 is added to the Revenue and Taxation Code, to read.

17063 3. For purposes of subdivision (j) of Section 17063:

(a) The term "straight line recovery of intangibles," when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under subdivision (b)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

(b) If the taxpayer elects, at such time and in such manner as the Franchise Tax Board may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term "straight line recovery of intangibles" means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subdivision (j) of Section 17063.

SEC. 20. Section 17064.5 of the Revenue and Taxation Code is amended to read:

17064.5. (a) In the case of an estate or trust—

(1) The sum of the items of tax preference for any taxable year of the estate or trust shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(2) The four thousand dollars ($4,000) amount specified in Section 17062 applicable to such estate or trust shall be reduced to an amount which bears the same ratio to four thousand dollars ($4,000) as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.

(b) In the case of a nonresident, the minimum tax imposed by this chapter shall apply to only the sum of the tax preference items which relate to income for the taxable year which is derived from sources within this state.

(c) The items of tax preference of a common trust fund (as defined in Section 17671) for each taxable year of the fund shall be treated as items of tax preference of the participants of such fund and shall be apportioned pro rata among such participants.

(d) If a return is made for a short period, then the four thousand dollars ($4,000) amount specified in Section 17062 or the eight thousand dollars ($8,000) specified in Section 17062.1, modified as provided by this section, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.

(e) (1) For purposes of this part, the term estimated tax shall not include the minimum tax imposed by this chapter.

(2) For purposes of Chapter 12 (relating to credit for taxes paid), the taxes imposed by this part do not include taxes imposed by this chapter.

(3) Except as otherwise expressly provided in this chapter, the

term "taxes" includes the minimum tax imposed by this chapter

(f) The Franchise Tax Board shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax under this chapter for any taxable years.

SEC. 21 Section 17072 of the Revenue and Taxation Code is amended to read

17072 For purposes of this part, the term "adjusted gross income" means, in the case of an individual, gross income minus the following deductions

(a) The deductions allowed by this part (other than by Article 7 of this chapter) which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee

(b) (1) The deductions allowed by Article 6 (Section 17201 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer.

(2) The deductions allowed by Article 6 (Section 17201 and following) which consist of expenses of travel, meals, and lodging while away from home, paid or incurred by the taxpayer in connection with the performance by him of services as an employee.

(3) The deductions allowed by Article 6 (commencing with Section 17201) of Chapter 3 of this part which consist of expenses of transportation paid or incurred by the taxpayer in connection with the performance by him of services as an employee.

(4) The deductions allowed by Article 6 (commencing with Section 17201) of Chapter 3 of this part which are attributable to a trade or business carried on by the taxpayer, if such trade or business consists of the performance of services by the taxpayer as an employee and if such trade or business is to solicit, away from the employer's place of business, business for the employer.

(c) The deductions allowed by Article 6 (commencing with Section 17201) of Chapter 3 of this part as losses from the sale or exchange of property.

(d) The deductions allowed by Article 6 (commencing with Section 17201) of Chapter 3 of this part, by Section 17252 (relating to expenses for production of income), and by Section 17681 (relating to depletion) which are attributable to property held for the production of rents or royalties

(e) In the case of a life tenant of property, or an income beneficiary of property held in trust, or an heir, legatee, or devisee of an estate, the deduction for depreciation allowed by Sections 17208 to 17212, inclusive, and the deduction allowed by Section 17681.

(f) In the case of an individual who is an employee within the meaning of Section 17502.2(a), the deductions allowed by Sections 17513 to 17525, inclusive, and Section 17526(c) to the extent attributable to contributions made on behalf of such individual

(g) The deduction allowed by Section 17266

(h) The deduction allowed by Section 17240 (relating to deduction of certain retirement savings) and the deduction allowed by Section 17241 (relating to retirement savings for certain married individuals).

(i) The deductions allowed by Section 17206 for losses incurred in any transaction entered into for profit, though not connected with a trade or business, to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit, or similar class of deposit

(j) The deduction allowed by Section 17263 (relating to alimony).

(k) Nothing in this section shall permit the same item to be deducted more than once.

SEC. 22. Section 17122 of the Revenue and Taxation Code is amended to read:

17122. There shall be included in gross income for the taxable year for which an increase is required—

(1) The amount of any increase in the suspense account required by clause (ii) of subparagraph (B) of paragraph (4) of subdivision (f) of Section 17207 (relating to certain debt obligations guaranteed by dealers).

(2) The amount of any increase in the suspense account required by subparagraph (B) of paragraph (2) of subdivision (c) of Section 17597 (relating to accrual of vacation pay).

SEC. 22.5. Section 17137.5 is added to the Revenue and Taxation Code, to read:

17137.5. (a) If, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of a diversified management company consists of bonds issued by this state or a local government in this state, such company shall be qualified to pay exempt-interest dividends to its shareholders.

(b) For purposes of this section—

(1) The term "exempt-interest dividend" means any dividend or part thereof paid by a diversified management company in an amount not exceeding the interest received by it during its taxable year on bonds issued by this state or a local government in this state and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year.

(2) The term "diversified management company" means a corporation which meets the requirements of Section 23701m.

(3) The term "value" means, with respect to securities (other than those of majority-owned subsidiaries) for which market quotations are readily available, the market value of such securities; and with respect to other securities and assets, fair market value as determined in good faith by the board of directors, except that in the case of securities of majority-owned subsidiaries which are

investment companies, as defined in the Investment Company Act of 1940, such fair value shall not exceed market value or asset value, whichever is higher.

(c) An exempt-interest dividend shall be treated by recipients thereof as an item of interest excludable from income under Section 17137.

SEC. 23 Section 17138 of the Revenue and Taxation Code is amended to read:

17138. (a) Except in the case of amounts attributable to (and not in excess of) deductions allowed under Sections 17253 to 17258, inclusive (relating to medical, etc., expenses) for any prior taxable year, gross income does not include—

(1) Amounts received under workmen's compensation acts as compensation for personal injuries or sickness;

(2) The amount of any damages received (whether by suit or agreement) on account of personal injuries or sickness,

(3) Amounts received through accident or health insurance for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includable in the gross income of the employee, or (B) are paid by the employer); and

(4) Amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of Section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C 1081; 60 Stat. 1021).

For purposes of paragraph (3), in the case of an individual who is, or has been, an employee within the meaning of Section 17502.2(a) (relating to self-employed individuals), contributions made on behalf of such individual while he was such an employee to a trust described in Section 17501 which is exempt from tax under Section 17631, or under a plan described in Section 17511, shall, to the extent allowed as deductions under Sections 17513 to 17525, inclusive, be treated as contributions by the employer which were not includable in the gross income of the employee

(b) (1) Subdivision (a)(4) shall not apply in the case of any individual who is not described in paragraph (2)

(2) An individual is described in this paragraph if—

(A) On or before September 24, 1975, he was entitled to receive any amount described in subdivision (a)(4).

(B) On September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subdivision (a)(4) or under a binding written commitment to become such a member.

(C) He receives an amount described in subdivision (a)(4) by reason of a combat-related injury, or

(D) On application therefor, he would be entitled to receive disability compensation from the Veterans' Administration

(3) For purposes of this subdivision, the term "combat-related

injury" means personal injury or sickness—

(A) Which is incurred—

(i) As a direct result of armed conflict.

(ii) While engaged in extrahazardous service, or

(iii) Under conditions simulating war; or

(B) Which is caused by an instrumentality of war

In the case of an individual who is not described in subparagraph (A) or (B) of paragraph (2), except as provided in paragraph (4), the only amounts taken into account under subdivision (a) (4) shall be the amounts which he receives by reason of a combat-related injury.

(4) In the case of any individual described in paragraph (2), the amounts excludable under subdivision (a) (4) for any period with respect to any individual shall not be less than the maximum amount which such individual, on application therefor, would be entitled to receive as disability compensation from the Veterans' Administration.

(c) (1) For exclusion from employee's gross income of employer contributions to accident and health plans, see Section 17140

(2) For exclusion of part of disability retirement pay from the application of subdivision (a) (4) of this section, see Section 1403 of Title 10 of the United States Code (relating to career compensations laws).

SEC 24 Section 17139 of the Revenue and Taxation Code is amended to read:

17139 (a) Except as otherwise provided in this section, amounts received by an employee through accident or health insurance for personal injuries or sickness shall be included in gross income to the extent such amounts (1) are attributable to contributions by the employer which were not includable in the gross income of the employee, or (2) are paid by the employer.

(b) Except in the case of amounts attributable to (and not in excess of) deductions allowed under Sections 17253 to 17258, inclusive (relating to medical, etc., expenses), for any prior taxable year, gross income does not include amounts referred to in subsection (a) if such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in Section 17257) of the taxpayer, his spouse, and his dependents (as defined in Sections 17054 to 17059, inclusive).

(c) Gross income does not include amounts referred to in subsection (a) to the extent such amounts—

(1) Constitute payment for the permanent loss or loss of use of a member or function of the body, or the permanent disfigurement, of the taxpayer, his spouse, or a dependent (as defined in Sections 17054 to 17059, inclusive), and

(2) Are computed with reference to the nature of the injury without regard to the period the employee is absent from work

(d) (1) In the case of a taxpayer who—

(A) Has not attained age 65 before the close of the taxable year, and

(B) Retired on disability and, when he retired, was permanently and totally disabled, gross income does not include amounts referred to in subdivision (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

(2) This subdivision shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of one hundred dollars ($100).

(3) If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subdivision) exceeds fifteen thousand dollars ($15,000), the amount which but for this paragraph would be excluded under this subdivision for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over fifteen thousand dollars ($15,000).

(4) Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subdivision shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year. For purposes of this subdivision, marital status shall be determined under Section 17173.

(5) For purposes of this subdivision, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such time as the Franchise Tax Board may require.

(6) For purposes of this subdivision, the term "joint return" means the joint return of a husband and wife made under Section 18402.

(7) In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of Sections 17101 to 17112.7, inclusive, the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subdivision for such year and all subsequent years.

(e) For purposes of this section and Section 17138—

(1) Amounts received under an accident or health plan for employees, and

(2) Amounts received from a sickness and disability fund for employees maintained under the law of a state, a territory, or the District of Columbia,

shall be treated as amounts received through accident or health insurance.

(f) For purposes of Section 17253 (relating to medical, dental, etc., expenses) amounts excluded from gross income under subsection (c) or (d) shall not be considered as compensation (by insurance or otherwise) for expenses paid for medical care

SEC 25. Section 17154 of the Revenue and Taxation Code is amended to read:

17154. (a) At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if—

(1) The taxpayer has attained the age of 65 before the date of such sale or exchange, and

(2) During the eight-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating five years or more, and

(b) (1) If the adjusted sales price of the property sold or exchanged exceeds thirty-five thousand dollars ($35,000), subdivision (a) shall apply to that portion of the gain which bears the same ratio to the total amount of such gain as thirty-five thousand dollars ($35,000) bears to such adjusted sales price For purposes of the preceding sentence, the term "adjusted sales price" has the meaning assigned to such term by subdivision (a) of Section 18092 (determined without regard to paragraph (7) of subdivision (d) of this section).

(2) Subdivision (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subdivision (a) with respect to any other sale or exchange is in effect

(c) An election under subdivision (a) may be made or revoked at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this part for the taxable year in which the sale or exchange occurred, and shall be made or revoked in such manner as the Franchise Tax Board shall by regulations prescribe In the case of a taxpayer who is married, an election under subdivision (a) or a revocation thereof may be made only if his spouse joins in such election or revocation

(d) (1) For purposes of this section, if—

(A) Property is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

(B) Such husband and wife make a joint return under subdivision (b) of Section 18402 for the taxable year of the sale or exchange, and

(C) One spouse satisfies the age, holding, and use requirements of subdivision (a) with respect to such property,

then both husband and wife shall be treated as satisfying the age, holding, and use requirements of subdivision (a) with respect to such property.

(2) For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if—

(A) The deceased spouse (during the eight-year period ending

on the date of the sale or exchange) satisfied the holding and use requirements of paragraph (2) of subdivision (a) with respect to such property, and

(B) No election by the deceased spouse under subdivision (a) is in effect with respect to a prior sale or exchange,

then such individual shall be treated as satisfying the holding and use requirements of paragraph (2) of subdivision (a) with respect to such property.

(3) For purposes of this section, if the taxpayer holds stock as a tenant-stockholder (as defined in Sections 17264 and 17265) in a cooperative housing corporation (as defined in such sections), then—

(A) The holding requirements of paragraph (2) of subdivision (a) shall be applied to the holding of such stock, and

(B) The use requirements of paragraph (2) of subdivision (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

(4) For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property

(5) In the case of property only a portion of which, during the eight-year period ending on the date of the sale or exchange, has been owned and used by the taxpayer as his principal residence for periods aggregating five years or more, this section shall apply with respect to so much of the gain from the sale or exchange of such property as is determined, under regulations prescribed by the Franchise Tax Board, to be attributable to the portion of the property so owned and used by the taxpayer.

(6) In the case of any sale or exchange, for purposes of this section—

(A) The determination of whether an individual is married shall be made as of the date of the sale or exchange, and

(B) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married

(7) In applying Sections 18082 to 18090.2, inclusive (relating to involuntary conversions), and 18091 to 18100, inclusive (relating to sale or exchange of residence), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to an election under this section.

(e) This section shall apply to dispositions after December 31, 1963, in taxable years ending after such date.

SEC. 26. Section 17159 is added to the Revenue and Taxation Code, to read:

17159. (a) In the case of an individual, no amount shall be included in gross income for purposes of Section 17071 by reason of the discharge of all or part of the indebtedness of the individual

under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers

(b) For purposes of this section the term "student loan" means any loan to an individual to assist the individual in attending an educational organization described in paragraph (2) of subdivision (b) of Section 17215.1—

(1) By the United States, or an instrumentality or agency thereof, or a state, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) By any such educational organization pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a state, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational organization

(c) The provisions of this section shall apply to discharges of indebtedness made before January 1, 1979

SEC 26.5 Section 17202 of the Revenue and Taxation Code is amended to read:

17202. (a) There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) Traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

(3) Rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity

(b) (1) For purposes of subdivision (a), the place of residence of a Member of Congress (including any delegate and resident commissioner) within the state, congressional district, territory, or possession which he represents in Congress shall be considered his home, but amounts expended by such members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of three thousand dollars ($3,000).

For purposes of subdivision (a), the place of residence of a Member of the Legislature for purposes of this part shall be deemed to be within the district which he represents.

(b) No deduction shall be allowed under subdivision (a) for any contribution or gift which would be allowable as a deduction under Sections 17214, 17215, 17216, and 17216.2 were it not for the percentage limitations, the dollar limitations, or the requirements as

to the time of payment, set forth in such sections.

(c) (1) No deduction shall be allowed under subdivision (a) for any payment made, directly or indirectly, to an official or employee of any government, or of any agency or instrumentality of any government, if the payment constitutes an illegal bribe or kickback or, if the payment is to an official or employee of a foreign government, the payment would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee. The burden of proof in respect of the issue, for the purposes of this paragraph, as to whether a payment constitutes an illegal bribe or kickback (or would be unlawful under the laws of the United States) shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud.

(2) No deduction shall be allowed under subdivision (a) for any payment (other than a payment described in paragraph (1)) made, directly or indirectly, to any person, if the payment constitutes an illegal bribe, illegal kickback, or other illegal payment under any law of the United States, or under any law of a state (but only if such state law is generally enforced), which subjects the payor to a criminal penalty or the loss of license or privilege to engage in a trade or business. For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer. The burden of proof in respect of the issue, for purposes of this paragraph, as to whether a payment constitutes an illegal bribe, illegal kickback, or other illegal payment shall be upon the Franchise Tax Board to the same extent as it bears the burden of proof when the issue relates to fraud. However, a deduction shall not be disallowed under this paragraph, if, with respect to a payment described herein, the taxpayer in a court of competent jurisdiction is acquitted of making an illegal bribe, kickback or payment

(3) No deduction shall be allowed under subdivision (a) for any kickback, rebate, or bribe made by any provider of services, supplier, physician, or other person who furnishes items or services for which payment is or may be made under the Social Security Act, or in whole or in part out of federal funds under a state plan approved under such act, if such kickback, rebate, or bribe is made in connection with the furnishing of such items or services or the making or receipt of such payments For purposes of this paragraph, a kickback includes a payment in consideration of the referral of a client, patient, or customer.

(d) No deduction shall be allowed under subdivision (a) for any fine or similar penalty paid to a government for the violation of any law.

(e) If in a criminal proceeding a taxpayer is convicted of a violation of the antitrust laws, or his plea of guilty or nolo contendere to an indictment or information charging such a violation is entered or accepted in such a proceeding, no deduction shall be allowed under subdivision (a) for two-thirds of any amount paid or

incurred—

(1) On any judgment for damages entered against the taxpayer under Section 4 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (commonly known as the Clayton Act), on account of such violation or any related violation of the antitrust laws which occurred prior to the date of the final judgment of such conviction, or

(2) In settlement of any action brought under such Section 4 on account of such violation or related violation

The preceding sentence shall not apply with respect to any conviction or plea before January 1, 1971, or to any conviction or plea on or after such date in a new trial following an appeal of a conviction before such date.

(f) For special rule relating to expenses in connection with subdividing real property for sale, see Sections 18197 to 18199, inclusive

SEC. 27. Section 17203 of the Revenue and Taxation Code is amended to read:

17203 (a) There shall be allowed as a deduction all interest paid or accrued within the taxable year on indebtedness However, no deduction shall be allowed to the extent that it is connected with income not taxable under this part The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the Franchise Tax Board

(b) (1) If personal property or educational services are purchased under a contract—

(A) Which provides that payment of part or all of the purchase price is to be made in installments; and

(B) In which carrying charges are separately stated but the interest charge cannot be ascertained;

then the payments made during the taxable year under the contract shall be treated for purposes of this section as if they included interest equal to 6 percent of the average unpaid balance under the contract during the taxable year For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12

For purposes of this paragraph, the term "educational services" means any service (including lodging) which is purchased from an educational institution (as defined in subdivision (c) of Section 17150) and which is provided for a student of such institution

(2) In the case of any contract to which paragraph (1) applies, the amount treated as interest for any taxable year shall not exceed the aggregate carrying charges which are properly attributable to such taxable year.

(c) The amendments made in subdivision (b) shall apply to payments made during taxable years beginning after December 31,

1963.

(d) (1) The amount of investment interest (as defined in subparagraph (D) of paragraph (3) otherwise allowable as a deduction under this part shall be limited, in the following order, to—

(A) Ten thousand dollars ($10,000) (five thousand dollars ($5,000), in the case of a separate return by a married individual), plus

(B) The amount of the net investment income (as defined in subparagraph (A) of paragraph (3)), plus the amount (if any) by which the deductions allowable under this section (determined without regard to this subdivision) and Section 17202, paragraphs (1) and (2) of subdivision (a) of Section 17204 or Section 17252 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year.

In the case of a trust, the ten thousand dollars ($10,000) amount specified in subparagraph (A) shall be zero

(2) The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year

(3) For purposes of this subdivision—

(A) The term "net investment income" means the excess of investment income over investment expenses If the taxpayer has investment interest for the taxable year to which this subdivision (as in effect before the enactment of the amendments made in this subdivision in the 1977–78 Legislative Session) applies, the amount of the net investment income taken into account under this subdivision shall be the amount of such income (determined without regard to this sentence) multiplied by a fraction the numerator of which is the excess of the investment interest for the taxable year over the investment interest to which such prior provision applies, and the denominator which is the investment interest for the taxable year

(B) The term "investment income" means—

(i) The gross income from interest, dividends, rents, and royalties,

(ii) The capital gain attributable to the disposition of property held for investment and held for not more than one year, and

(iii) Any amount treated under Sections 18211, 18212 to 18218, inclusive, and 18221 as gain from the sale or exchange of property which is neither a capital asset nor property described in Sections 18181 and 18182 but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business

(C) The term "investment expenses" means the deductions allowable under Section 17202, paragraph (1) or (2) of subdivision (a) of Section 17204, Sections 17207, 17208 to 17211 7, inclusive, 17217 to 17221, inclusive, 17252, or 17681 directly connected with the production of investment income For purposes of this subparagraph, the deduction allowable under Sections 17208 to 17211.5, inclusive, with respect to any property may be treated as the amount which

would have been allowable had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property, and the deduction allowable under Section 17681 with respect to any property may be treated as the amount which would have been allowable had the taxpayer determined the deduction under Section 17681 without regard to Sections 17683 to 17688, inclusive, for each taxable year for which the taxpayer has held the property.

(D) The term "investment interest" means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

(E) The term "disallowed investment interest" means with respect to any taxable year, the amount not allowable as a deduction solely by reason of the limitation in paragraph (1).

(4) (A) For purposes of this subdivision, property subject to a lease shall be treated as property held for investment, and not as property used in a trade or business, for a taxable year, if—

(i) For such taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of Section 17202 (other than rents and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

(ii) The lessor is either guaranteed a specified return or is guaranteed in whole or in part against loss of income.

(B) In the case of a partnership, each partner shall, under regulations prescribed by the Franchise Tax Board, take into account separately his distributive share of the partnership's investment interest and the other items of income and expense taken into account under this subdivision.

(C) For purposes of this subdivision, interest paid or accrued on indebtedness incurred or continued in the construction of property to be used in a trade or business shall not be treated as investment interest.

(5) This subdivision shall not apply with respect to investment interest, investment income, and investment expenses attributable to a specific item of property, if the indebtedness with respect to such property—

(A) Is for a specified term, and

(B) Was incurred before December 17, 1969, or is incurred after December 16, 1969, pursuant to a written contract or commitment which, on such date and at all times thereafter prior to the incurring of such indebtedness, is binding on the taxpayer.

For taxable years beginning after December 31, 1976, the paragraph shall be applied on an allocation basis rather than a specific item basis

(6) For purposes of subparagraph (A) of paragraph (4)—

(A) If a parcel of real property of the taxpayer is leased under two or more leases, clause (i) of subparagraph (A) of paragraph (4) shall, at the election of the taxpayer, be applied by treating all

leased portions of such property as subject to a single lease; and

(B) At the election of the taxpayer, clause (i) of subparagraph (A) of paragraph (4) shall not apply with respect to real property of the taxpayer which has been in use for more than five years

An election under subparagraph (A) or (B) shall be made at such time and in such manner as the Franchise Tax Board prescribes by regulations.

(7) (A) In the case of any 50-percent-owned corporation or partnership, the ten thousand dollar ($10,000) figure specified in paragraph (1) shall be increased by the lesser of—

(i) Fifteen thousand dollars ($15,000), or

(ii) The interest paid or accrued during the taxable year on investment indebtedness incurred or continued in connection with the acquisition of the interest in such corporation or partnership.

In the case of a separate return by a married individual, seven thousand five hundred dollars ($7,500) shall be substituted for the fifteen thousand dollars ($15,000) figure in clause (i).

(B) This paragraph shall apply with respect to indebtedness only if the taxpayer, his spouse, and his children own 50 percent or more of the total value of all classes of stock of the corporation or 50 percent or more of all capital interests in the partnership, as the case may be

(e) (1) The amendments made in subdivision (d) by the First Extraordinary Session of the 1971 Legislature and the Regular Session of the 1972 Legislature shall apply to taxable years beginning after December 31, 1971

(2) Except as provided in paragraph (3), the amendments made in subdivision (d) by the 1977–78 Legislature shall apply to taxable years beginning after December 31, 1976

(3) In the case of indebtedness attributable to a specific item of property which—

(A) Is for a specified term, and

(B) Was incurred before September 11, 1975, or is incurred after September 10, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer

The amendments made by this section at the 1977–78 Regular Session of the Legislature shall not apply, but subdivision (d) of Section 17203 (as in effect before the enactment of these amendments) shall apply. For purposes of the preceding sentence, so much of the net investment income (as defined in subparagraph (A) of paragraph (3) of subdivision (d) of Section 17203) for any taxable year as is not taken into account under subdivision (d) of Section 17203, as amended by these amendments, by reason of the last sentence of subparagraph (A) of paragraph (3) of subdivision (d) of Section 17203, shall be taken into account for purposes of applying such section as in effect before the date of enactment of these amendments with respect to interest on indebtedness referred to in the preceding sentence.

SEC. 28. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) (1) There shall be allowed as a deduction any debt which becomes worthless within the taxable year; (2) when satisfied that a debt is recoverable only in part, the Franchise Tax Board may allow such debt in an amount not in excess of the part charged off within the taxable year, as a deduction.

(b) For purposes of subdivision (a), the basis for determining the amount of the deduction for any bad debt shall be the adjusted basis provided in Section 18041 for determining the loss from the sale or other disposition of property.

(c) In lieu of any deduction under subdivision (a), there shall be allowed (in the discretion of the Franchise Tax Board) a deduction for a reasonable addition to a reserve for bad debts.

(d) (1) (A) Subdivisions (a) and (c) shall not apply to any nonbusiness debt; and

(B) Where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than one year.

(2) For purposes of paragraph (1), the term "nonbusiness debt" means a debt other than—

(A) A debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer; or

(B) A debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business.

(e) This section shall not apply to a debt which is evidenced by a security as defined in subparagraph (C) of paragraph (2) of subdivision (g) of Section 17206.

(f) (1) In the case of a taxpayer who is a dealer in property, in lieu of any deduction under subdivision (a), there shall be allowed (in the discretion of the Franchise Tax Board) for any taxable year beginning on and after January 1, 1967, a deduction—

(A) For a reasonable addition to a reserve for bad debts which, may arise out of his liability as a guarantor, endorser, or indemnitor of debt obligations arising out of the sale by him of real property or tangible personal property (including related services) in the ordinary course of his trade or business, and

(B) For the amount of any reduction in the suspense account required by clause (i) of subparagraph (B) of paragraph (4).

(2) Except as provided in paragraph (1), no deduction shall be allowed to a taxpayer for any addition to a reserve for bad debts which may arise out of his liability as guarantor, endorser, or indemnitor of debt obligations.

(3) The opening balance of a reserve described in subparagraph (A) of paragraph (1) for the first taxable year beginning on and after January 1, 1967, for which a taxpayer maintains such reserve shall, under regulations prescribed by the Franchise Tax Board, be determined as if the taxpayer had maintained such reserve for the

preceding taxable years

(4) (A) Except as provided by subparagraph (C), each taxpayer who maintains a reserve described in subparagraph (A) of paragraph (1) shall, for purposes of this subdivision and Section 17122, establish and maintain a suspense account. The initial balance of such account shall be equal to the opening balance described in paragraph (3)

(B) At the close of each taxable year the suspense account shall be—

(i) Reduced by the excess of the suspense account at the beginning of the year over the reserve described in subparagraph (A) of paragraph (1) (after making the addition for such year provided in such paragraph), or

(ii) Increased (but not to an amount greater than the initial balance of the suspense account) by the excess of the reserve described in subparagraph (A) of paragraph (1) after making the addition for such year provided in such paragraph) over the suspense account at the beginning of such year

(C) Subparagraphs (A) and (B) shall not apply in the case of the taxpayer who maintained for his last taxable year beginning before January 1, 1967, a reserve for bad debts under subdivision (c) which included debt obligations described in subparagraph (A) of paragraph (1)

(5) If the taxpayer establishes a reserve under paragraph (1) of subdivision (g) of this section for a taxable year beginning on and after January 1, 1967, and ending before December 1, 1968, the establishment of such reserve shall not be considered as a change in method of accounting for purposes of subdivision (e) of Section 17561

(g) The amendment to this section by the 1977–78 Regular Session of the Legislature shall apply to guarantees made after December 31, 1976, in taxable years beginning after such date

SEC 29 Section 17209 of the Revenue and Taxation Code is amended to read

17209 (a) Where, under regulations prescribed by the Franchise Tax Board, the taxpayer and the Franchise Tax Board have, after the date of enactment of this section, entered into an agreement in writing specifically dealing with the useful life and rate of depreciation of any property, the rate so agreed upon shall be binding on both the taxpayer and the Franchise Tax Board in the absence of facts or circumstances not taken into consideration in the adoption of such agreement The responsibility of establishing the existence of such facts and circumstances shall rest with the party initiating the modification Any change in the agreed rate and useful life specified in the agreement shall not be effective for taxable years before the taxable year in which notice in writing by certified mail or registered mail is served by the party to the agreement initiating such change.

(b) (1) In the absence of an agreement under subdivision (a) containing a provision to the contrary, a taxpayer may at any time

elect in accordance with regulations prescribed by the Franchise Tax Board to change from the method of depreciation described in paragraph (2) of subdivision (b) of Section 17208 to the method described in paragraph (1) of subdivision (b) of Section 17208.

(2) A taxpayer may, on or before the last day prescribed by law (including extensions thereof) for filing his return for his first taxable year beginning after December 31, 1962, and in such manner as the Franchise Tax Board shall by regulations prescribe, elect to change his method of depreciation in respect of Section 18211 property (as defined in paragraph (3) of subdivision (a) of Section 18211) from any declining balance or sum of the years-digits method to the straight line method. An election may be made under this paragraph notwithstanding any provision to the contrary in an agreement under subdivision (a).

(3) A taxpayer may, on or before the last day prescribed by law (including extensions thereof) for filing his return for his first taxable year beginning after December 31, 1976, and in such manner as the Franchise Tax Board shall by regulation prescribe, elect to change his method of depreciation in respect of Section 18212 property (as defined in Section 18214) from any declining balance or sum of the years-digits method to the straight line method. An election may be made under this paragraph notwithstanding any provision to the contrary in an agreement under subdivision (a).

SEC. 30. Section 17211.4 is added to the Revenue and Taxation Code, to read:

17211.4. (a) (1) In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after December 31, 1976, occupied by a certified historic structure (as defined in Section 17228(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in Section 17228(d)(3)) after such date—

(A) Sections 17208(b), 17211.6, and 17211.7 shall not apply.

(B) The term "reasonable allowance" as used in Section 17208(a) shall mean only an allowance computed under the straight line method.

(2) The limitations imposed by this section shall not apply to personal property

This subdivision shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1976, and before January 1, 1981.

(b) (1) Pursuant to regulations prescribed by the Franchise Tax Board, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) and all succeeding taxable years.

(2) For purposes of paragraph (1), the term "substantially rehabilitated historic property" means any certified historic structure (as defined in Section 17228(d)(1)) with respect to which

the additions to capital account for any certified rehabilitation (as defined in Section 17228(d)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

(A) The adjusted basis of such property, or

(B) Five thousand dollars ($5,000)

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of Section 18216), whichever is later.

(3) This subdivision shall apply with respect to additions to capital account occurring after December 31, 1976, and before July 1, 1981

SEC. 31. Section 17211.7 of the Revenue and Taxation Code is amended to read.

17211.7 (a) The taxpayer may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by subdivision (a) of Section 17208 attributable to rehabilitation expenditures incurred with respect to low-income rental housing after December 31, 1970, and before January 1, 1978, under the straight line method using a useful life of 60 months and no salvage value Such method shall be in lieu of any other method of computing the depreciation deduction under subdivision (a) of Section 17208, and in lieu of any deduction for amortization, for such expenditures

(b) (1) The aggregate amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit in any low-income rental housing which may be taken into account under subdivision (a) shall not exceed twenty thousand dollars ($20,000)

(2) Rehabilitation expenditures paid or incurred by the taxpayer in any taxable year with respect to any dwelling unit in any low-income rental housing shall be taken into account under subdivision (a) only if over a period of two consecutive years, including the taxable year, the aggregate amount of such expenditures exceeds three thousand dollars ($3,000)

(c) For purposes of this section

(1) The term "rehabilitation expenditures" means amounts chargeable to capital account and incurred for property or additions or improvements to property (or related facilities) with a useful life of five years or more, in connection with the rehabilitation of an existing building for low-income rental housing, but such term does not include the cost of acquisition of such building or any interest therein

(2) The term "low-income rental housing" means any building the dwelling units in which are held for occupancy on a rental basis by families and individuals of low or moderate income, as determined by the Franchise Tax Board in a manner consistent with the Leased Housing Program under Section 8 of the United States

Housing Act of 1937 pursuant to regulations prescribed under this section

(3) The term "dwelling unit" means a house or an apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, inn, or other establishment more than one-half of the units in which are used on a transient basis.

(4) Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1978, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, shall be deemed incurred before January 1, 1978.

(d) The amendments made by the 1977–78 Regular Session of the Legislature shall apply to expenditures paid or incurred after December 31, 1976, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978. The amendment made in subdivision (b) shall apply to expenditures incurred after December 31, 1976

SEC 32 Section 17213 of the Revenue and Taxation Code is amended to read:

17213 (a) In the case of Section 17213 property, the term "reasonable allowance" as used in Section 17208(a) may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under Sections 17208 through 17211.5 to the taxpayer with respect to such property, of 20 percent of the cost of such property.

(b) If in any one taxable year the cost of Section 17213 property with respect to which the taxpayer may elect an allowance under subdivision (a) for such taxable year exceeds ten thousand dollars ($10,000), then subsection (a) shall apply with respect to those items selected by the taxpayer, but only to the extent of an aggregate cost of ten thousand dollars ($10,000). In the case of a husband and wife who file a joint return under Section 18402 for the taxable year, the limitation under the preceding sentence shall be twenty thousand dollars ($20,000) in lieu of ten thousand dollars ($10,000).

(c) (1) The election under this section for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(2) Any election made under this section may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, the term "Section 17213 property" means tangible personal property—

(A) Of a character subject to the allowance for depreciation under Sections 17208 through 17211.5,

(B) Acquired by purchase after December 31, 1958, for use in a trade or business or for holding for production of income, and

(C) With a useful life (determined at the time of such acquisition) of six years or more.

(2) For purposes of paragraph (1), the term "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Sections 17287 through 17290 or 17865 (but in applying Sections 17288 and 17289 for purposes of this section, paragraph (d) of Section 17289 shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The basis of the property in the hands of the person acquiring it is not determined—

(i) In whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) Under Section 18044 (relating to property acquired from a decedent).

(3) For purposes of this section, the cost of property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the person acquiring such property.

(4) This section shall not apply to trusts

(5) In the case of an estate, any amount apportioned to an heir, legatee, or devisee under Section 17211.5 shall not be taken into account in applying subsection (b) of this section to Section 17213 property of such heir, legatee, or devisee not held by such estate.

(6) In the case of a partnership, the dollar limitation contained in the first sentence of subdivision (b) shall apply with respect to the partnership and with respect to each partner

(7) In applying Section 17211, the adjustment under Section 18052(b) resulting by reason of an election made under this section with respect to any Section 17213 property shall be made before any deduction allowed by Section 17208(a) is computed.

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

SEC. 33. Section 17214 of the Revenue and Taxation Code is amended to read:

17214. In computing taxable income there shall be allowed as a deduction, in case of an individual, contributions or gifts, payment of which is made within the taxable year to or for the use of:

(a) The United States, a possession of the United States, any state, or any political subdivision thereof, or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(b) A corporation, or trust, or community chest, fund or foundation—

(1) Created or organized in the United States or in any possession thereof, or under the law of the United States, any state, the District of Columbia, or any possession of the United States.

(2) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or

international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals,

(3) No part of the net earnings of which inures to the benefit of any private shareholder or individual, and

(4) Which is not disqualified for tax exemption under Section 23701d by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office. A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in paragraph (2).

(c) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(1) Organized in the United States or any of its possessions, and

(2) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(e) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

(f) For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 17288. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

SEC 34. Section 17214.2 of the Revenue and Taxation Code is amended to read:

17214.2. (a) In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under Section 17214 only to the extent that the value of the interest contributed would be allowable as a deduction under Section 17214 if such interest had been transferred in trust. For purposes of this subdivision, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the

taxpayer's entire interest in such property.

(b) Subdivision (a) shall not apply to a contribution of—

(1) A remainder interest in a personal residence or farm,

(2) An undivided portion of the taxpayer's entire interest in property,

(3) A lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in Section 170(b)(1)(A) of the Internal Revenue Code of 1954 exclusively for conservation purposes, or

(4) A remainder interest in real property which is granted to an organization described in Section 170(b)(1)(A) of the Internal Revenue Code of 1954 exclusively for conservation purposes

(c) For purposes of subdivision (b), the term "conservation purposes" means—

(1) The preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

(2) The preservation of historically important land areas or structures; or

(3) The protection of natural environmental systems.

(d) The amendments made to this section by the 1977–78 Regular Session of the Legislature shall apply with respect to contributions or transfers made after December 31, 1976, and before June 14, 1977.

SEC. 35. Section 17214.5 is added to the Revenue and Taxation Code, to read:

17214.5. No deduction shall be allowed under this part for an out-of-pocket expenditure made by any person on behalf of an organization described in Section 17214 (other than an organization described in Section 23704.5(a)(5) (relating to churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of Section 23701d).

SEC. 36. Section 17216.2 of the Revenue and Taxation Code is amended to read.

17216.2. (a) The amount of any charitable contribution of property otherwise taken into account under Section 17214 shall be reduced by the sum of—

(1) The amount of gain which would have been included in taxable income, if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), except that this paragraph shall not apply if the amount of gain includable in taxable income is determined by applying paragraph (2) or (3) of subdivision (a) of Section 18162.5, and

(2) In the case of a charitable contribution—

(A) Of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under Section 23701 (or, in the case of a governmental unit, to any purpose or function described in Section 17215.2), or

(B) To or for the use of a private foundation (as defined in Section 509(a) of the Internal Revenue Code), other than a private

foundation described in Section 170(b)(1)(E) of that code, the amount of gain which would have been included in taxable income under paragraph (2) or (3) of subdivision (a) of Section 18162.5 if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution). For purposes of applying this subdivision (other than in the case of gain to which paragraph (1) of subdivision (d) of Section 17689.5, subdivision (a) of Section 18211, Section 18212, subdivision (c) of Section 18220, subdivision (a) of Section 18221, or subdivision (a) of Section 18219 applies), property which is property used in the trade or business (as defined in Section 18182) shall be treated as a capital asset.

(b) For purposes of subdivision (a), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Franchise Tax Board.

SEC. 37. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 17208. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month

specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1977, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1970, or

(ii) Acquired after December 31, 1970, if the original use of the property commences with the taxpayer and commences after such date.

In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1970.

(B) In the case of any treatment facility used in connection with any plant or other property not in operation before January 1971, the preceding sentence shall be applied by substituting December 31, 1976, for December 31, 1970

(e) The State Department of Health shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life

(f) (1) For purposes of this section, the term "amortizable basis"

means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(j) The amendments made to subdivision (d) by the 1977–78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

SEC. 38. Section 17228 is added to the Revenue and Taxation Code, to read:

17228. (a) Every taxpayer, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subdivision (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by Sections 17208 to 17211.7, inclusive. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Franchise Tax Board, in such manner, in such form, and within such time as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer who has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 to 17211.7, inclusive, shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) For purposes of this section—

(1) The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive which—

(A) Is listed in the National Register,

(B) Is located in a registered historic district and is certified by the Secretary of the Interior as being of historic significance to the district, or

(C) Is located in an historic district designated under a statute of the appropriate state or local government if such statute is certified by the Secretary of the Interior to the Franchise Tax Board as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

(2) The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(3) The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Franchise Tax Board as being consistent with the historic character of such property or the district in which such property is located.

(e) The depreciation deduction provided by Sections 17208 to 17211.7, inclusive, shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant

(g) (1) For rules relating to the listing of buildings and structures in the National Register and for definitions of "National Register" and "Registered Historic District," see Section 470 et seq. of Title 16 of the United States Code

(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(h) This section shall apply with respect to additions to capital account after December 31, 1976, and before June 15, 1981.

SEC. 39. Section 17229.5 is added to the Revenue and Taxation Code, to read:

17229.5. (a) In the case of the demolition of a certified historic structure (as defined in Section 17228 (d) (1))—

(1) No deduction otherwise allowable under this part shall be allowed to the owner or lessee of such structure for—

(A) Any amount expended for such demolition, or

(B) Any loss sustained on account of such demolition; and

(2) Amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

(b) For purposes of this section, any building or other structure located in a registered historic district shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district

(c) This section shall apply with respect to demolitions commencing after December 31, 1976, and before January 1, 1981

SEC. 40. Section 17233 of the Revenue and Taxation Code is amended to read:

17233. (a) In the case of an activity engaged in by an individual, if such activity is not engaged in for profit, no deduction attributable to such activity shall be allowed under this part except as provided in this section

(b) In the case of an activity not engaged in for profit to which subdivision (a) applies, there shall be allowed—

(1) The deductions which would be allowable under this part for the taxable year without regard to whether or not such activity is engaged in for profit, and

(2) A deduction equal to the amount of the deductions which would be allowable under this part for the taxable year only if such activity were engaged in for profit, but only to the extent that the gross income derived from such activity for the taxable year exceeds the deductions allowable by reason of paragraph (1)

(c) For purposes of this section, the term "activity not engaged in for profit" means any activity other than one with respect to which deductions are allowable for the taxable year under Section 17202 or under subdivision (a) or (b) of Section 17252.

(d) If the gross income derived from an activity for two or more of the taxable years in the period of five consecutive taxable years

which ends with the taxable year exceeds the deductions attributable to such activity (determined without regard to whether or not such activity is engaged in for profit), then, unless the Franchise Tax Board establishes to the contrary, such activity shall be presumed for purposes of this chapter for such taxable year to be an activity engaged in for profit. In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting the period of seven consecutive taxable years for the period of five consecutive taxable years

(e) (1) A determination as to whether the presumption provided by subdivision (d) applies with respect to any activity shall, if the taxpayer so elects, not be made before the close of the fourth taxable year (sixth taxable year in the case of an activity described in the last sentence of such subdivision) following the taxable year in which the taxpayer first engages in the activity. For purposes of the preceding sentence, a taxpayer shall be treated as not having engaged in an activity during any taxable year beginning before January 1, 1970.

(2) If the taxpayer makes an election under paragraph (1), the presumption provided by subdivision (d) shall apply to each taxable year in the five-taxable year (or seven-taxable year) period beginning with the taxable year in which the taxpayer first engages in the activity, if the gross income derived from the activity for two or more of the taxable years in such period exceeds the deductions attributable to the activity (determined without regard to whether or not the activity is engaged in for profit).

(3) An election under paragraph (1) shall be made at such time and manner, and subject to such terms and conditions, as the Franchise Tax Board may prescribe.

(4) If a taxpayer makes an election under paragraph (1) with respect to an activity, the statutory period for the assessment of any deficiency attributable to such activity shall not expire before the expiration of two years after the date prescribed by law (determined without extensions) for filing the return of tax under this part for the last taxable year in the period of five taxable years (or seven taxable years) to which the election relates. Such deficiency may be assessed notwithstanding the provisions of any law or rule which would otherwise prevent such an assessment.

(f) Paragraph 4 of subdivision (e) shall not apply to any taxable year ending before the date of the enactment of such paragraph with respect to which the period for assessing a deficiency has expired before such date of enactment.

SEC. 41. Section 17237.5 is added to the Revenue and Taxation Code, to read:

17237 5. (a) (1) A taxpayer may elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) An election under paragraph (1) shall be made at such time and in such manner as the Franchise Tax Board prescribes by regulations.

(b) For purposes of this section—

(1) The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

(2) The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Franchise Tax Board, that the resulting removal of any such barrier meets the standards promulgated by the Secretary of Treasury of United States with the concurrence of the Architectural and Transportation Barriers Compliance Board.

(3) The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

(c) The deduction allowed by subdivision (a) for any taxable year shall not exceed twenty-five thousand dollars ($25,000).

(d) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) This section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1980.

SEC 42. Section 17235 of the Revenue and Taxation Code is amended to read:

17235. (a) Except as provided in subdivision (b), any amount (allowable as a deduction without regard to this section), which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove, other fruit or nut grove or vineyard (or part thereof), and which is incurred before the close of the fourth taxable year beginning with the taxable year in which the trees were planted, shall be charged to capital account. For purposes of the preceding sentence, the portion of a citrus or almond grove, other fruit or nut grove or vineyard planted in one taxable year shall be treated separately from the portion of such grove planted in another taxable year.

(b) Subdivision (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus or almond grove, other fruit or nut grove or vineyard (or part thereof) which was:

(1) Replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests

or casualty, or

(2) Planted or replanted prior to the enactment of this section with respect to citrus groves, or planted or replanted prior to the effective date of the amendments to this section at the 1971 First Extraordinary Session of the Legislature with respect to almond groves, or planted or replanted prior to the effective date of the amendments to this section at the 1975–76 Regular Session of the Legislature with respect to other fruit or nut groves, or planted or replanted prior to the effective date of the amendments to this section at the 1977–78 Regular Session of the Legislature with respect to vineyards

SEC. 43 Section 17237 is added to the Revenue and Taxation Code, to read:

17237. (a) Except as otherwise provided in this section or in Section 17286 (relating to carrying charges), in the case of an individual, no deduction shall be allowed for real property construction period interest and taxes.

(b) Any amount paid or accrued which would (but for subdivision (a)) be allowable as a deduction for the taxable year shall be allowable for such taxable year and each subsequent amortization year in accordance with the following table:

If the amount is paid or accrued in a taxable year beginning in—			The percentage of such amount allowable for each amortization year shall be the following percentage of such amount
Non-residential real property	Residential real property (other than low-income housing)	Low-income housing	
	1978	1982	25
1977	1979	1983	20
1978	1980	1984	16⅔
1979	1981	1985	14⅔
1980	1982	1986	12½
1981	1983	1987	11¼
after 1981	after 1983	after 1987	10

(c) (1) For purposes of this section, the term "amortization year" means the taxable year in which the amount is paid or accrued, and each taxable year thereafter (beginning with the taxable year after the taxable year in which paid or accrued or, if later, the taxable year in which the real property is ready to be placed in service or is ready to be held for sale) until the full amount has been allowable as a deduction (or until the property is sold or exchanged).

(2) For purposes of paragraph (1)—

(A) For the amortization year in which the property is sold or exchanged, or proportionate part of the percentage allowable for such year (determined without regard to the sale or exchange) shall be allowable. If the real property is subject to an allowance for depreciation, the proportion shall be determined in accordance with

the convention used for depreciation purposes with respect to such property. In the case of all other real property, under regulations prescribed by the Franchise Tax Board, the proportion shall be based on that proportion of the amortization year which elapsed before the sale or exchange.

(B) In the case of a sale or exchange of the property, the portion of the amount not allowable shall be treated as an adjustment to basis under Sections 18052 and 18053 for purposes of determining gain or loss.

(C) An exchange or transfer after which the property received has a basis determined in whole or in part by reference to the basis of the property to which the amortizable construction period interest and taxes relate, shall not be treated as an exchange.

(d) This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business as in an activity conducted for profit.

(e) For purposes of this section—

(1) The term "construction period interest and taxes" means all—

(A) Interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

(B) Real property taxes, to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this part for the taxable year in which paid or accrued (determined without regard to this section).

(2) The term "construction period," when used with respect to any real property, means the period—

(A) Beginning on the date on which construction of the building or other improvement begins, and

(B) Ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

(3) The term "nonresidential real property" means real property which is neither residential real property nor low-income housing.

(4) The term "residential real property" means property which is or can reasonably be expected to be—

(A) Residential rental property as defined in paragraph (2) of subdivision (b) of Section 17211.6, or

(B) Real property described in subdivision (a) of Section 18161 held for sale as dwelling units within the meaning of paragraph (3) of subdivision (c) of Section 17211.7).

(5) The term "low-income housing" means property described in clause (i), (ii), (iii), or (iv) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 18212.

(f) This section shall apply—

(1) In the case of nonresidential real property, if the construction period begins after December 31, 1976.

(2) In the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) In the case of low-income housing, to taxable years beginning

after December 31, 1981. For purposes of this subdivision, the terms "nonresidential real property," "residential real property (other than low-income housing)," "low-income housing," and "construction period" have the same meaning as when used in subdivision (e).

SEC. 44 Section 17240 of the Revenue and Taxation Code is amended to read:

17240. (a) In the case of an individual, there is allowed as a deduction amounts paid in cash for the taxable year by or on behalf of such individual for his benefit—

(1) To an individual retirement account described in Section 17530(a)

(2) For an individual retirement annuity described in Section 17530(b), or

(3) For a retirement bond described in Section 17530.1 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this part, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of Section 17502.2(a)) includable in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subdivision (b).

(b) Limitations and Restrictions. (1) The amount allowable as a deduction under subdivision (a) to an individual for any taxable year may not exceed an amount equal to 15 percent of the compensation includable in his gross income for such taxable year, or one thousand five hundred dollars ($1,500), whichever is less.

(2) No deduction is allowed under subdivision (a) for an individual for the taxable year if for any part of such year—

(A) He was an active participant in—

(i) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(ii) An annuity plan described in Section 17511,

(iii) A qualified bond purchase plan described in Section 17526(a), or

(iv) A plan established for its employees by the United States, by a state or political division thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer for an annuity contract described in Section 17512 (whether or not his rights in such contract are nonforfeitable).

(3) No deduction is allowed under subdivision (a) with respect to any payment described in subdivision (a) which is made during the taxable year of an individual who has attained age 70½ before the close of such taxable year.

(4) No deduction is allowed under this section with respect to a rollover contribution described in Section 17503(d), 17511(e),

17530(d)(3), or 17530.1(b)(3)(C).

(5) In the case of an endowment contract described in Section 17530(b), no deduction is allowed under subdivision (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Franchise Tax Board, to the cost of life insurance.

(6) No deduction is allowed under subdivision (a) for the taxable year if the individual claims the deduction allowed by Section 17241 for the taxable year.

(c) (1) For purposes of this section, the term "compensation" includes earned income as defined in Section 17502.2(b).

(2) In the case of married individuals the maximum deduction under subdivision (b)(1) shall be computed separately for each individual. For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of Section 17173.

(3) For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.

(4) (A) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan described in subdivision (b)(3)(A)(iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days on active duty (other than active duty for training) during the year.

(B) An individual whose participation in a plan described in subdivision (b)(3)(A)(iv) is based solely upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.

SEC. 45. Section 17241 is added to the Revenue and Taxation Code, to read:

17241. (a) In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

(1) To an individual retirement account described in Section 17530(a),

(2) For an individual retirement annuity described in Section 17530(b),

(3) For a retirement bond described in Section 17530.1 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this part, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other

than a self-employed individual who is an employee within the meaning of Section 17502.2(a) includable in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subdivision (b)

(b) (1) The amount allowable as a deduction under subdivision (a) to an individual for any taxable year may not exceed—

(A) Twice the amount paid to the account or annuity, or for the bond, established for the individual or for his spouse to or for which the lesser amount was paid for the taxable year,

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, or

(C) One thousand seven hundred fifty dollars ($1,750), whichever is the smallest amount.

(2) No deduction is allowed under subdivision (a) for the taxable year if the individual claims the deduction allowed by Section 17240 for the taxable year.

(3) No deduction is allowed under subdivision (a) for an individual for the taxable year if for any part of such year—

(A) He or his spouse was an active participant in—

(i) A plan described in Section 17501 which includes a trust exempt from tax under Section 17631,

(ii) An annuity plan described in Section 17511,

(iii) A qualified bond purchase plan described in Section 17526(a), or

(iv) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

(B) Amounts were contributed by his employer, or his spouse's employer, for an annuity contract described in Section 17512 (whether or not his, or his spouse's rights in such contract are nonforfeitable).

(4) No deduction is allowed under subdivision (a) with respect to any payment which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

(5) No deduction is allowed under this section with respect to a rollover contribution described in Section 17503(e), 17511(c), 17530(d)(3), or 17530.1(b)(3)(C).

(6) In the case of an endowment contract described in Section 17530(b), no deduction is allowed under subdivision (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Franchise Tax Board, to the cost of life insurance.

(7) No deduction is allowed under subdivision (a) with respect to a payment described in subdivision (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to Section 911 of the Internal Revenue Code of 1954 as amended by P.L. 93-406) for the taxable year of such spouse ending with or within such taxable year.

(c) (1) For purposes of this section, the term "compensation" includes earned income as defined in Section 17502.2(b).

(2) This section shall be applied without regard to any community property laws.

(3) The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of Section 17173.

(4) For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.

(5) A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subdivision (b)(3)(A)(iv) if, under Section 17240(c)(4), he is not considered to be an active participant in such a plan.

SEC. 46. Section 17258 of the Revenue and Taxation Code is amended to read:

17258. Any expense allowed as a credit under Section 17052.6 shall not be treated as an expense paid for medical care.

SEC. 47. Section 17262 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 17266 of the Revenue and Taxation Code is amended to read:

17266. (a) There shall be allowed as a deduction moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work.

(b) (1) For purposes of this section, the term "moving expenses" means only the reasonable expenses—

(A) Of moving household goods and personal effects from the former residence to the new residence,

(B) Of traveling (including meals and lodging) from the former residence to the new place of residence,

(C) Of traveling (including meals and lodging), after obtaining employment, from the former residence to the general location of the new principal place of work and return, for the principal purpose of searching for a new residence,

(D) Of meals and lodging while occupying temporary quarters in the general location of the new principal place of work during any period of 30 consecutive days after obtaining employment, or

(E) Constituting qualified residence sale, purchase, or lease expenses.

(2) For purposes of subparagraph (E) of paragraph (1), the term "qualified residence sale, purchase, or lease expenses" means only reasonable expenses incident to—

(A) The sale or exchange by the taxpayer or his spouse of the taxpayer's former residence (not including expenses for work performed on such residence in order to assist in its sale) which (but

for this subdivision and subdivision (e)) would be taken into account in determining the amount realized on the sale or exchange,

(B) The purchase by the taxpayer or his spouse of a new residence in the general location of the new principal place of work which (but for this subdivision and subdivision (e)) would be taken into account in determining—

(i) The adjusted basis of the new residence, or

(ii) The cost of a loan (but not including any amounts which represent payments or prepayments of interest),

(C) The settlement of an unexpired lease held by the taxpayer or his spouse on property used by the taxpayer as his former residence, or

(D) The acquisition of a lease by the taxpayer or his spouse on property used by the taxpayer as his new residence in the general location of the new principal place of work (not including amounts which are payments or prepayments of rent).

(3) (A) The aggregate amount allowable as a deduction under subdivision (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1) shall not exceed one thousand five hundred dollars ($1,500). The aggregate amount allowable as a deduction under subdivision (a) which is attributable to qualified residence sale, purchase, or lease expenses shall not exceed three thousand dollars ($3,000), reduced by the aggregate amount so allowable which is attributable to expenses described in subparagraph (C) or (D) of paragraph (1).

(B) If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only one commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting seven hundred fifty dollars ($750) for one thousand five hundred dollars ($1,500), and by substituting one thousand five hundred dollars ($1,500) for three thousand dollars ($3,000).

(C) In the case of any individual other than the taxpayer, expenses referred to in subparagraphs (A) to (D), inclusive, of paragraph (1) shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household.

(c) No deduction shall be allowed under this section unless—

(1) The taxpayer's new principal place of work—

(A) Is at least 35 miles farther from his former residence than was his former principal place of work, or

(B) If he had no former principal place of work, is at least 35 miles from his former residence, and

(2) Either—

(A) During the 12-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at

least 39 weeks, or

(B) During the 24-month period immediately following his arrival in the general location of his new principal place of work, the taxpayer is a full-time employee or performs services as a self-employed individual on a full-time basis, in such general location, during at least 78 weeks, of which not less than 39 weeks are during the 12-month period referred to in subparagraph (A).

For purposes of paragraph (1), the distance between two points shall be the shortest of the more commonly traveled routes between such two points.

(d) In the case of an individual whose former residence was outside this state and his new place of residence is located within this state or whose former residence was located in this state and his new place of residence is located outside this state, the deduction allowed by this section shall be allowed only if any amount received as payment for or reimbursement of expenses of moving from one residence to another residence is includable in gross income as provided by Section 17122.5 and the amount of deduction shall be limited only to the amount of such payment or reimbursement or the amounts specified in subdivision (b), whichever amount is the lesser

(e) (1) The condition of paragraph (2) of subdivision (c) shall not apply if the taxpayer is unable to satisfy such condition by reason of—

(A) Death or disability, or

(B) Involuntary separation (other than for willful misconduct) from the service of, or transfer for the benefit of, an employer after obtaining full-time employment in which the taxpayer could reasonably have been expected to satisfy such condition.

(2) If a taxpayer has not satisfied the condition of paragraph (2) of subdivision (c) before the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which he paid or incurred moving expenses which would otherwise be deductible under this section, but may still satisfy such condition, then such expenses may (at the election of the taxpayer) be deducted for such taxable year notwithstanding paragraph (2) of subdivision (c).

(3) If—

(A) For any taxable year moving expenses have been deducted in accordance with the rule provided in paragraph (2), and

(B) The condition of paragraph (2) of subdivision (c) cannot be satisfied at the close of the subsequent taxable year,

then an amount equal to the expenses which were so deducted shall be included in gross income for the first such subsequent taxable year.

(f) The amount realized on the sale of the residence described in subparagraph (A) of paragraph (2) of subdivision (b) shall not be decreased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subdivision (a), and the basis of a residence described in subparagraph (B) of

paragraph (2) of subdivision (b) shall not be increased by the amount of any expenses described in such subparagraph which are allowed as a deduction under subdivision (a) This subdivision shall not apply to any expenses with respect to which an amount is included in gross income under paragraph (3) of subdivision (e).

(g) In the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station—

(1) The limitations under subdivision (c) shall not apply;

(2) Any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member.

(3) If moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member's spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one to which such member moves). This section shall apply with respect to the moving expenses of his spouse and dependents—

(A) As if his spouse commenced work as an employee at a new principal place of work at such location;

(B) For purposes of subdivision (b) (3), as if such place of work was within the same general location as the member's new principal place of work; and

(C) Without regard to the limitations under subdivision (c).

(h) (1) For purposes of this section, the term "self-employed individual" means an individual who performs personal services—

(A) As the owner of the entire interest in an unincorporated trade or business, or

(B) As a partner in a partnership carrying on a trade or business.

(2) For purposes of subparagraphs (C) and (D) of paragraph (1) of subdivision (b), an individual who commences work at a new principal place of work as a self-employed individual shall be treated as having obtained employment when he has made substantial arrangements to commence such work.

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

SEC. 49. Section 17283 of the Revenue and Taxation Code is amended to read:

17283. No deduction shall be allowed for—

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This subdivision shall not apply to—

(1) Expenditures for the development of mines or deposits deductible under Section 17690;

(2) Soil and water conservation expenditures deductible under Section 17224;

(3) Expenditures for farmers for fertilizer, etc., deductible under Section 17232;

(4) Research and experimental expenditures deductible under Section 17233; or

(5) Expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under Section 17227.

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(c) Notwithstanding subdivision (a) or (b), regulations shall be prescribed by the Franchise Tax Board under this part corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the United States Congress in House Concurrent Resolution 50, 79th Congress.

SEC. 49.5. Section 17285 of the Revenue and Taxation Code is amended to read:

17285. No deduction shall be allowed for—

(a) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this part, or any amount otherwise allowable under Section 17252 (relating to expenses for production of income) which is allocable to interest (whether or not any amount of such interest is received or accrued) wholly exempt from the taxes imposed by this part

(b) Interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this part The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the Franchise Tax Board

(c) Interest on indebtedness incurred or continued to purchase or carry shares of stock of a diversified management company which during the taxable year of the holder thereof distributes exempt-interest dividends.

SEC. 50. Section 17293 of the Revenue and Taxation Code is amended to read:

17293. (a) No deduction shall be allowed under Section 17207 (relating to bad debts) or under Section 17206(g) (relating to worthlessness of securities) by reason of the worthlessness of any debt owed by a political party.

(b) (1) For purposes of subsection (a), the term "political party" means—

(A) A political party;

(B) A national, state, or local committee of a political party; or

(C) A committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or

vice-presidential electors or of any individual whose name is presented for election to any federal, state, or local elective public office, whether or not such individual is elected.

(2) For purposes of paragraph (1) (C), the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) For purposes of paragraph (1) (C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

(c) In the case of a taxpayer who uses an accrual method of accounting, subdivision (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if—

(1) For the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

(2) The taxpayer made substantial continuing efforts to collect on the debt

SEC. 50.5. Section 17296 of the Revenue and Taxation Code is amended to read:

17296. No deduction shall be allowed under Section 17202 or 17252, for any traveling or entertainment expenses unless substantiated by adequate records or by sufficient evidence which corroborates the taxpayer's own statement. The preceding sentence shall not apply to living allowances paid pursuant to Sections 8902 or 8903 of the Government Code as compensation for traveling expenses.

SEC. 51. Section 17299.2 is added to the Revenue and Taxation Code, to read:

17299.2. (a) Except in the case of production costs which are charged to capital account, amounts attributable to the production of a film, sound recording, book, or similar property which are otherwise deductible under this part shall be allowed as deductions only in accordance with the provisions of subdivision (b).

(b) Amounts referred to in subdivision (a) are deductible only for those taxable years ending during the period during which the taxpayer reasonably may be expected to receive substantially all of the income he will receive from any such film, sound recording, book, or similar property. The amount deductible for any such taxable year is an amount which bears the same ratio to the sum of all such amounts (attributable to such film, sound recording, book, or similar property) as the income received from the property for that taxable year bears to the sum of the income the taxpayer may reasonably be expected to receive during such period.

(c) For purposes of this section—

(1) The term "film" means any motion picture film or video tape.

(2) The term "sound recording" means works that result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes, or other phonorecordings, in which such sounds are embodied.

(d) This section shall apply to amounts paid or incurred after December 31, 1976, with respect to property the principal production of which begins after December 31, 1976.

SEC. 51.5. Section 17299.3 is added to the Revenue and Taxation Code, to read:

17299.3. (a) Except as otherwise provided in this section, in the case of a taxpayer who is an individual, no deduction otherwise allowable under this part shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence.

(b) Subdivision (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

(c) (1) Subdivision (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis—

(A) As the taxpayer's principal place of business,

(B) As a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

(C) In the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer's trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

(2) Subdivision (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer's trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of such trade or business.

(3) Subdivision (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subdivision (e)).

(4) In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this part for the taxable year by reason of being attributed to such use shall not exceed the excess of—

(A) The gross income derived from such use for the taxable year, over

(B) The deductions allocable to such use which are allowable under this part for the taxable year whether or not such unit (or

portion thereof) was so used.

(d) (1) For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

(A) Fourteen days, or

(B) Ten percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes.

(2) For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for personal purposes for a day, if for any part of such day, the unit is used—

(A) For personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in Section 17289(d)) of the taxpayer or such other person;

(B) By any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

(C) By any individual (other than an employee with respect to whose use Section 17151 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

The Franchise Tax Board shall prescribe regulations with respect to the circumstances under which use of the unit for repairs and annual maintenance will not constitute personal use under this paragraph.

(e) (1) In any case where a taxpayer who is an individual uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this part with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during each year that the unit (or portion thereof) is rented at a fair rental bears to the total number of days during such year that the unit (or portion thereof) is used.

(2) This subdivision shall not apply with respect to deductions which would be allowable under this part for the taxable year whether or not such unit (or portion thereof) was rented.

(f) (1) For purposes of this section—

(A) The term "dwelling unit" includes a house, apartment, condominium, mobilehome, boat, or similar property, and all structures or other property appurtenant to such dwelling unit.

(B) The term "dwelling unit" does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment.

(2) If subdivision (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

(A) Section 17233 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

(B) Such year shall be taken into account as a taxable year for purposes of applying subdivision (d) of Section 17233 (relating to five-year presumption).

(g) Notwithstanding any other provision of this section or Section 17233, if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then—

(1) No deduction otherwise allowable under this part because of the rental use of such dwelling unit shall be allowed, and

(2) The income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under Section 17071.

(h) This section shall not apply to any owner-occupied dwelling which is receiving the homeowners' exemption pursuant to Section 218.

SEC. 52. Section 17299.4 is added to the Revenue and Taxation Code, to read:

17299.4. (a) If any individual attends more than two foreign conventions during his taxable year—

(1) He shall select not more than two of such conventions to be taken into account for purposes of this section, and

(2) No deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under paragraph (1)) shall be allowed under Section 17202 or 17252.

(b) In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under Section 17202 or 17252 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting "first class" for "coach or economy."

(c) In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of subdivision (b)) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities

(d) In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

(1) A deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least six hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

(2) A deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least three hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities.

Notwithstanding paragraphs (1) and (2), a deduction for subsistence expenses for all of the days or half days, as the case may be, shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least six hours of scheduled business activities and each such half day consists of at least three hours of scheduled business activities.

(e) In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under Section 5702(a) of Title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

(f) For purposes of this section—

(1) The term "foreign convention" means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

(2) The term "subsistence expenses" means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

(3) In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts property allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

(4) This section shall apply to deductions otherwise allowable under Section 17202 or 17252 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same two foreign conventions as were selected by such individual.

(g) No deduction shall be allowed under Section 17202 or 17252 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

(1) A written statement signed by the individual attending the convention which includes—

(A) Information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

(B) A program of the scheduled business activities of the convention, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board; and

(2) A written statement signed by an officer of the organization or group sponsoring the convention which includes—

(A) A schedule of the business activities of each day of the convention,

(B) The number of hours which the individual attending the convention attended such scheduled business activities, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board.

SEC. 53. Section 17361 of the Revenue and Taxation Code is amended to read:

17361. (a) Except as otherwise provided in this section and Sections 17362 to 17364, inclusive, 17366 and 17367, on the distribution of property by a corporation with respect to its stock, the earnings and profits of the corporation (to the extent thereof) shall be decreased by the sum of—

(1) The amount of money,

(2) The principal amount of the obligations of such corporation, and

(3) The adjusted basis of the other property, so distributed.

(b) (1) On the distribution by a corporation, with respect to its stock, of inventory assets (as defined in subparagraph (A) of paragraph (2)) the fair market value of which exceeds the adjusted basis thereof, the earnings and profits of the corporation—

(A) Shall be increased by the amount of such excess; and

(B) Shall be decreased by whichever of the following is the lesser:

(i) The fair market value of the inventory assets distributed, or

(ii) The earnings and profits (as increased under subparagraph (A))

(2) (A) For purposes of paragraph (1), the term "inventory assets" means—

(i) Stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year;

(ii) Property held by the corporation primarily for sale to customers in the ordinary course of its trade or business; and

(iii) Unrealized receivables or fees, except receivables from sales or exchanges of assets other than assets described in this subparagraph.

(B) For purposes of clause (iii) of subparagraph (A), the term

"unrealized receivables or fees" means, to the extent not previously includable in income under the method of accounting used by the corporation, any rights (contractual or otherwise) to payment for—

(i) Goods delivered, or to be delivered, to the extent that the proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset, or

(ii) Services rendered or to be rendered.

(c) In making the adjustments to the earnings and profits of a corporation under subdivision (a) or (b), proper adjustments shall be made for—

(1) The amount of any liability to which the property distributed is subject,

(2) The amount of any liability of the corporation assumed by a shareholder in connection with the distribution, and

(3) Any gain to the corporation recognized under Section 24482, 24483, or 24483.5 of the Bank and Corporation Tax Law or under Section 17417, paragraph (1) of subdivision (d) of Section 17689.5, subdivision (a) of Section 18211, Section 18212, subdivision (c) of Section 18220, subdivision (a) of Section 18221, or subdivision (a) of Section 18219.

(d) The distribution to a distributee by or on behalf of a corporation of its stock or securities, of stock or securities in another corporation, or of property, in a distribution to which this part applies, shall not be considered a distribution of the earnings and profits of any corporation—

(1) If no gain to such distributee from the receipt of such stock or securities, or property, was recognized under this part, or

(2) If the distribution was not subject to tax in the hands of such distributee by reason of Section 17335

(e) In the case of a distribution of stock or securities, or property, to which Section 17162 of the Personal Income Tax Law of 1954 (or the corresponding provision of prior law) applied, the effect on earnings and profits of such distribution shall be determined under such Section 17162, or the corresponding provision of prior law, as the case may be.

(f) For purposes of subdivisions (d) and (e), the term "stock or securities" includes rights to acquire stock or securities.

SEC. 54 Section 17416 of the Revenue and Taxation Code is amended to read:

17416. For purposes of Section 17415, the determination of whether gain from the sale or exchange of property would under any provision of this part be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in Section 18182 shall be made without regard to the application of paragraph (1), of subdivision (d) of Section 17689.5, subdivision (a) of Section 18211, Section 18212, subdivision (c) of Section 18220, subdivision (a) of Section 18221 and subdivision (a) of Section 18219

SEC 55 Section 17445 of the Revenue and Taxation Code is repealed.

SEC. 55.1. Section 17445 is added to the Revenue and Taxation Code, to read:

17445. (a) (1) If, in connection with any exchange described in Sections 17431 to 17439, inclusive, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183rd day after the beginning of such transfer (and filed in such form and manner as may be prescribed by regulations by the Franchise Tax Board), it is established to the satisfaction of the Franchise Tax Board that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income taxes.

(2) Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Franchise Tax Board by regulations designates as not requiring the filing of a request.

(b) (1) In the case of any exchange described in Sections 17431 to 17439, inclusive, in connection with which there is no transfer of property described in subdivision (a) (1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Franchise Tax Board which are necessary or appropriate to prevent the avoidance of income taxes

(2) The regulations prescribed pursuant to paragraph (1) shall include, but shall not be limited to, regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

(A) The circumstances under which—

(i) Gain shall be recognized currently, or amounts included in gross income currently as a dividend, or both, or

(ii) Gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

(B) The extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

(c) (1) For purposes of this section any distribution described in Sections 17433 and 17435 (or so much of Sections 17435 to 17439, inclusive, as relates to Sections 17433 and 17435) shall be treated as an exchange whether or not it is an exchange.

(2) For purposes of this part, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who, immediately after the transfer, own (within the meaning of Section 17384) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

(d) In the case of any exchange beginning before January 1, 1978—

(1) Subdivision (a) shall be applied without regard to whether or not there is a transfer of property described in subdivision (a) (1), and

(2) Subdivision (b) shall not apply

SEC 56 Section 17461 of the Revenue and Taxation Code is amended to read:

17461. (a) For the purposes of Article 1 (commencing with Section 17321) to Article 7 (commencing with Section 17431), inclusive, of this chapter, the term "reorganization" means—

(1) A statutory merger or consolidation;

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition),

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded,

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Sections 17432 to 17439, inclusive;

(5) A recapitalization; or

(6) A mere change in identity, form, or place of organization, however effected.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, such transactions shall be treated as described only in paragraph (4) of subdivision (a)

(2) If—

(A) One corporation acquires substantially all of the properties of another corporation,

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock,

and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation,

then such acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1), paragraph (2) or paragraph (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) of subdivision (a), if—

(A) Such transaction would have qualified under paragraph (1) of subdivision (a) if the merger had been into the controlling corporation, and

(B) No stock of the acquiring corporation is used in the transaction.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if—

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a

real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph the term "investment company" means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities more than 80 percent of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company

(E) This paragraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions

(F) If an investment company which is not diversified within the meaning of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation If such investment company acquires stock of another corporation in a reorganization described in Section 17461(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of Section 18031, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated

as a sale or exchange of property by the corporation and by the shareholders and security holders to which subparagraph (A) is applied.

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

SEC. 57. Section 17503 of the Revenue and Taxation Code is amended to read:

17503. (a) Except as provided in subdivision (b), the amount actually distributed or made available to any distributee by any employees' trust described in Section 17501 which is exempt from tax under Section 17631 shall be taxable to him, in the year in which so distributed or made available, under Sections 17101 to 17112.7, inclusive (relating to annuities). The amount actually distributed or made available to any distributee shall not include net unrealized appreciation in securities of the employer corporation attributable to the amount contributed by the employee. Such net unrealized appreciation and the resulting adjustments to basis of such securities shall be determined in accordance with regulations prescribed by the Franchise Tax Board

(b) In the case of an employee's trust described in Section 17501, which is exempt from tax under Section 17631, if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's death or other separation from service, or on account of the death of the employee after his separation from service, so much of such total distribution as is equal to the excess of such total distribution over the amount contributed by the employee (determined by applying Section 17106), which employee contributions shall be reduced by any amount theretofore distributed to him which was not includable in gross income, multiplied by a fraction—

(1) The numerator of which is the number of calendar years of active participation by the employee in such plan before January 1, 1974, and

(2) The denominator of which is the number of calendar years of active participation by the employee in such plan, shall be treated as a gain from the sale or exchange of a capital asset held for more than five years.

Where such total distributions include securities of the employer corporation, there shall be excluded from such total distributions the net unrealized appreciation attributable to that part of the total distributions which consists of the securities of the employer corporation so distributed The amount of such net unrealized appreciation and the resulting adjustments to basis of the securities of the employer corporation so distributed shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

This subdivision shall not apply to distributions paid to any distributee to the extent such distributions are attributable to

contributions made on behalf of the employee while he was an employee within the meaning of subdivision (a) of Section 17502.2

(c) For purposes of this section—

(1) The term "securities" means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

(2) The term "securities of the employer corporation" includes securities of a parent or subsidiary corporation (as defined in subdivisions (e) and (f) of Section 17535) of the employer corporation.

(3) The term "total distributions payable" means the balance to the credit of an employee which becomes payable to a distributee on account of the employee's death or other separation from the service, or on account of his death after separation from the service.

(4) The term "employee contributions," as used in this section, means the amounts contributed by the employee (determined by applying Section 17106), which employee contributions shall be reduced by amounts theretofore distributed to him which were not includable in gross income.

(d) In the case of an employees' trust described in Section 17501 which is exempt from tax under Section 17631, if—

(1) The balance to the credit of an employee is paid to him—

(A) Within one taxable year of the employee on account of a termination of the plan of which the trust is a part or a complete discontinuance of contributions under such plan, or

(B) In one or more distributions which constitute a lump-sum distribution within the meaning of Section 402(e)(4)(A) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (determined without reference to subsection (e)(4)(B)).

(2) (A) The employee transfers all the property he receives in such distribution to an individual retirement account described in Section 17530(a), an individual retirement annuity described in Section 17530(b) (other than an endowment contract), or a retirement bond described in Section 17530.1, on or before the 60th day after the day on which he received such property, to the extent the fair market value of such property exceeds the employee contributions as defined in subparagraph (4) of subdivision (c), or

(B) The employee transfers all the property he receives in such distribution to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, or to an annuity plan described in Section 17511 on or before the 60th day after the day on which he received such property, to the extent the fair market value of such property exceeds the employee contributions as defined in subparagraph (4) of subdivision (c) and

(3) The amount so transferred consists of the property (other than money) distributed, to the extent that the fair market value of such property does not exceed the amount required to be transferred pursuant to paragraph (2), then such distributions are not includable

in gross income for the year in which paid For purposes of this part, a transfer described in paragraph (2) (A) shall be treated as a rollover contribution as described in Section 17530(d) (3). Paragraph (2) (B) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in paragraph (1) is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of Section 17502 2(a) at the time contributions were made on his behalf under the plan.

For purposes of paragraph (4) (A), a complete discontinuance of contributions under a plan shall be deemed to occur on the day the plan administrator notifies the Secretary of the Treasury (in accordance with regulations prescribed by the secretary) that all contributions to the plan have been completely discontinued.

SEC. 58. Section 17511 of the Revenue and Taxation Code is amended to read:

17511 Except as provided in subdivision (a), if an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of Section 17515 (whether or not the employer deducts the amounts paid for the contract under such section), the employee shall include in his gross income the amounts received under such contract for the year received as provided in Sections 17101 to 17112.7, inclusive (relating to annuities)

(a) If—

(1) An annuity contract is purchased by an employer for an employee under a plan described in the first paragraph,

(2) Such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan,

(3) The total amounts payable by reason of the employee's death or other separation from service, or by reason of the death of the employee after his separation from service, are paid to the payee within one taxable year of the payee,

then the capital gain element of such payments (as defined in subdivision (c)) shall be considered a gain from the sale or exchange of a capital asset held for more than five years This subdivision shall not apply to amounts paid to any payee to the extent such amounts are attributable to contributions made on behalf of the employee while he was an employee within the meaning of subdivision (a) of Section 17502.2.

(b) For purposes of subdivision (a), the term "total amounts" means the balance to the credit of an employee which becomes payable to the payee by reason of the employee's death or other separation from the service, or by reason of his death after separation from the service.

(c) For purposes of subdivision (a) the term "capital gain element" means so much of such total amounts described in subdivision (a) as is equal to the excess of such amounts over the amount contributed by the employee, which employee contributions shall be reduced by any amounts theretofore paid to him which were

not includable in gross income, multiplied by the fraction described in Section 17503(b)

(d) For purposes of this section, the term "employee" includes an individual who is an employee within the meaning of subdivision (a) of Section 17502.2, and the employer of such individual is the person treated as his employer under subdivision (d) of Section 17502.2

(e) In the case of an employee annuity described in this section, if—

(1) The balance to the credit of an employee is paid to him—

(A) Within one taxable year of the employee on account of a termination of the plan of which such trust is a part or a complete discontinuance of contributions under such plan, or

(B) In one or more distributions which constitutes a lump sum distribution within the meaning of Section 402(e)(4)(A) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L 93-406) (determined without reference to subsection (e)(4)(B)),

(2) (A) The employee transfers all the property he receives in such distribution to an individual account described in Section 17530(a), an individual retirement annuity described in Section 17530(b) (other than an endowment contract), or a retirement bond described in Section 17530.1, on or before the 60th day after the day on which he received such property to the extent the fair market value of such property exceeds the amount referred to in Section 17503(c)(4), or

(B) The employee transfers all the property he receives in such distribution to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, or to an annuity plan described in this section on or before the 60th day after the day on which he received such property to the extent the fair market value of such property exceeds the amount referred to in Section 17503(c)(4), and

(3) The amount so transferred consists of the property distributed to the extent that the fair market value of such property does not exceed the amount required to be transferred pursuant to paragraph (2),

then such distribution is not includable in gross income for the year in which paid. For purposes of this part, a transfer described in paragraph (2)(A) shall be treated as a rollover contribution described in Section 17530(d). Subparagraph (2)(B) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in paragraph (1) is attributable to an annuity plan under which the employee was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan.

For purposes of paragraph (1)(A), a complete discontinuance of contributions under a plan shall be deemed to occur on the day the plan administrator notifies the Secretary of the Treasury (in accordance with regulations prescribed by the secretary) that all

contributions to the plan have been completely discontinued

SEC. 59. Section 17512 of the Revenue and Taxation Code is amended to read:

17512. (a) (1) If—

(A) An annuity contract is purchased—

(i) For an employee by an employer described in Section 23701d which is exempt from tax under Section 23701, or

(ii) For an employee (other than an employee described in clause (i) of subparagraph (A)), who performs services for an educational institution (as defined in subdivision (c) of Section 17150), by an employer which is a state, a political subdivision of a state, or an agency or instrumentality of any one or more of the foregoing,

(B) Such annuity contract is not subject to Section 17511, and

(C) The employee's rights under the contract are nonforfeitable, except for failure to pay future premiums,

then amounts contributed by such employer for such annuity contract on or after such rights become nonforfeitable shall be excluded from the gross income of the employee for the taxable year to the extent that the aggregate of such amounts does not exceed the exclusion allowance for such taxable year. The employee shall include in his gross income the amounts received under such contract for the year received as provided in Sections 17101 to 17112.7, inclusive.

(2) For purposes of this section, the exclusion allowance for any employee for the taxable year is an amount equal to the excess, if any, of—

(A) The amount determined by multiplying 20 percent of his includable compensation by the number of years of service, over

(B) The aggregate of the amounts contributed by the employer for annuity contracts and excludable from the gross income of the employee for any prior taxable year.

(3) In the case of an employee who makes an election under Section 415(c)(4)(D) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) to have the provisions of Section 415(c)(4)(C) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to special rule for contracts purchased by educational institutions, hospitals, and home health service agencies) apply, the exclusion allowance for any such employee for the taxable year is the amount which could be contributed (under Section 415 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)) by his employer under a plan described in Section 17511 if the annuity contract for the benefit of such employee were treated as a defined contribution plan maintained by the employer.

(4) For purposes of this section, the term "includable compensation" means, in the case of any employee, the amount of

compensation which is received from the employer described in subparagraph (A) of paragraph (1), and which is includable in gross income (computed without regard to subdivision (d) of Section 17139 and Section 911 of the Internal Revenue Code of 1954 as amended by P.L. 93-406) for the most recent period (ending not later than the close of the taxable year) which under paragraph (4) may be counted as one year of service. Such term does not include any amount contributed by the employer for any annuity contract to which this section applies.

(5) In determining the number of years of service for purposes of this section, there shall be included—

(A) One year for each full year during which the individual was a full-time employee of the organization purchasing the annuity for him, and

(B) A fraction of a year (determined in accordance with regulations prescribed by the Franchise Tax Board) for each full year during which such individual was a part-time employee of such organization and for each part of a year during which such individual was a full-time or part-time employee of such organization.

In no case shall the number of years of service be less than one.

(6) If for any taxable year of the employee this section applies to two or more annuity contracts purchased by the employer, such contracts shall be treated as one contract.

(7) For purposes of this section and Section 17106 (relating to special rules for computing employees' contributions to annuity contracts), if rights of the employee under an annuity contract described in subparagraphs (A) and (B) of paragraph (1) change from forfeitable to nonforfeitable rights, then the amount (determined without regard to this subdivision) includable in gross income by reason of such change shall be treated as an amount contributed by the employer for such annuity contract as of the time such rights become nonforfeitable.

(8) (A) For purposes of this part, amounts paid by an employer described in paragraph (1) (A) to a custodial account which satisfies the requirements of Section 17502.5(b) shall be treated as amounts contributed by him for an annuity contract for his employee if the amounts are paid to provide a retirement benefit for that employee and are to be invested in regulated investment company stock to be held in that custodial account.

(B) For purposes of this part, a custodial account which satisfies the requirements of Section 17502.5(b) shall be treated as an organization described in Section 17501 solely for purposes of Sections 17631 to 17651, inclusive, with respect to amounts received by it (and income from investment thereof).

(C) For purposes of this paragraph, the term "regulated investment company" means a domestic corporation which is a regulated investment company within the meaning of Section 851(a) of the Internal Revenue Code of 1954.

(b) Premiums paid by an employer for an annuity contract which

is not subject to Section 17511 shall be included in the gross income of the employee in accordance with Section 17122.7 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The preceding sentence shall not apply to that portion of the premiums paid which is excluded from gross income under subdivision (a). The amount actually paid or made available to any beneficiary under such contract shall be taxable to him in the year in which so paid or made available under Section 17101 to 17112.7, inclusive (relating to annuities).

SEC. 60. Section 17530 of the Revenue and Taxation Code is amended to read:

17530. (a) For purposes of this section, the term "individual retirement account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

(1) Except in the case of a rollover contribution described in subdivision (d) (3), in Section 17503(d), 17511(e), or 17530.1(b) (3), no contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of one thousand five hundred dollars ($1,500) on behalf of any individual.

(2) The trustee is a bank (as defined in Section 17502.3(a)) or such other person who demonstrates to the satisfaction of the Franchise Tax Board that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

(3) No part of the trust funds will be invested in life insurance contracts.

(4) The interest of an individual in the balance in his account is nonforfeitable.

(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(6) The entire interest of an individual for whose benefit the trust is maintained will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, commencing before the close of such taxable year, in accordance with regulations prescribed by the Franchise Tax Board, over—

(A) The life of such individual or the lives of such individual and his spouse, or

(B) A period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse.

(7) If an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or

the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence does not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6)

(b) For purposes of this section, the term "individual retirement annuity" means an annuity contract, or an endowment contract (as determined under regulations prescribed by the Franchise Tax Board), issued by an insurance company which meets the following requirements·

(1) The contract is not transferable by the owner

(2) The annual premium under the contract will not exceed one thousand five hundred dollars ($1,500) and any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits.

(3) The entire interest of the owner will be distributed to him not later than the close of his taxable year in which he attains age 70½, or will be distributed, in accordance with regulations prescribed by the Franchise Tax Board over—

(A) The life of such owner or the lives of such owner and his spouse, or

(B) A period not extending beyond the life expectancy of such owner or the life expectancy of such owner and his spouse

(4) If the owner dies before his entire interest has been distributed to him, or if distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse, the entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within five years after his death (or the death of the surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which annuity will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall have no application if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3).

(5) The entire interest of the owner is nonforfeitable. Such term does not include such an annuity contract for any taxable year of the

owner in which it is disqualified on the application of subdivision (e) or for any subsequent taxable year. For purposes of this subdivision, no contract shall be treated as an endowment contract if it matures later than the taxable year in which the individual in whose name such contract is purchased attains age 70½; if it is not for the exclusive benefit of the individual in whose name it is purchased or his beneficiaries; or if the aggregate annual premiums under all such contracts purchased in the name of such individual for any taxable year exceed one thousand five hundred dollars ($1,500)

(c) A trust created or organized in the United States by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees (which may include employees within the meaning of Section 17502.2(a)) for the exclusive benefit of its members or their beneficiaries, shall be treated as an individual retirement account (described in subdivision (a)), but only if the written governing instrument creating the trust meets the following requirements:

(1) The trust satisfies the requirements of paragraphs (1) through (7) of subdivision (a).

(2) There is a separate accounting for the interest of each employee or member (or spouse of an employee or member).

The assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust.

(d) (1) Except as otherwise provided in this subdivision, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall be included in gross income by the payee or distributee, as the case may be, for the taxable year in which the payment or distribution is received. Notwithstanding any other provision of this code (including parts 8 (commencing with Section 13301) and 9 (commencing with Section 15101) of this division), the basis of any person in such an account or annuity is zero.

(2) Paragraph (1) does not apply to any annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subdivision (b) and which is distributed from an individual retirement account. Sections 17101 to 17112.7, inclusive, apply to any such annuity contract, and for purposes of Sections 17101 to 17112.7, inclusive, the investment in such contract is zero.

(3) An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

(A) Paragraph (1) does not apply to any amount paid or distributed out of an individual retirement account or individual retirement annuity to the individual for whose benefit the account or annuity is maintained if—

(i) The entire amount received (including money and any other property) is paid into an individual retirement account or individual retirement annuity (other than an endowment contract) or retirement bond for the benefit of such individual not later than the

60th day after the day on which he receives the payment or distribution; or

(ii) The entire amount received (including money and other property) represents the entire amount in the account or the entire value of the annuity and no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an employees' trust described in Section 17501 which is exempt from tax under Section 17631 (other than a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan), or an annuity plan described in Section 17511 (other than a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan) and any earnings on such sums and the entire amount thereof is paid into another such trust (for the benefit of such individual) or annuity plan not later than the 60th day on which he receives the payment or distribution

(B) This paragraph does not apply to any amount described in subparagraph (A) (i) received by an individual from an individual retirement account or individual retirement annuity if at any time during the three-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from an individual retirement account, individual retirement annuity, or a retirement bond which was not includable in his gross income because of the application of this paragraph.

(4) Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an individual retirement account or for an individual retirement annuity to the extent that such contribution exceeds the amount allowable as a deduction under Section 17240 or 17241 if—

(A) Such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year.

(B) No deduction is allowed under Section 17240 or 17241 with respect to such excess contribution, and

(C) Such distribution is accompanied by the amount of net income attributable to such excess contribution.

In the case of such a distribution, for purposes of Section 17071, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made.

(5) The transfer of an individual's interest in an individual retirement account, individual retirement annuity, or retirement bond to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this part, and such interest at the time of the transfer is to be treated as an individual retirement account of such spouse, and

not of such individual. Thereafter such account, annuity, or bond for purposes of this part is to be treated as maintained for the benefit of such spouse.

(e) (1) Any individual retirement account is exempt from taxation under this part unless such account has ceased to be an individual retirement account by reason of paragraph (2) or (3) Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by Section 17651 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

(2) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to and in conformance with Section 408 or 409 of the Internal Revenue Code of 1954 as amended by the Employee's Income Security Act of 1974 (P.L. 93-406), any net income attributable to the 1975 contribution shall not be includable in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(3) (A) If, during any taxable year of the individual for whose benefit any individual retirement account is established, that individual or his beneficiary engages in any transaction prohibited by Section 4975 of the Internal Revenue Code of 1954 as amended by Employee Retirement Income Security Act of 1974 (P.L. 93-406) with respect to such account, such account ceases to be an individual retirement account as of the first day of such taxable year. For purposes of this paragraph—

(i) The individual for whose benefit any account was established is treated as the creator of such account and

(ii) The separate account for any individual within an individual retirement account maintained by an employer or association of employees is treated as a separate individual retirement account

(B) In any case in which any account ceases to be an individual retirement account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subdivision (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

(4) If during any taxable year the owner of an individual retirement annuity borrows any money under or by use of such contract, the contract ceases to be an individual retirement annuity as of the first day of such taxable year Such owner shall include in gross income for such year an amount equal to the fair market value of such contract as of such first day.

(5) If, during any taxable year of the individual for whose benefit an individual retirement account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

(6) If the assets of an individual retirement account or any part of such assets are used to purchase an endowment contract for the

benefit of the individual for whose benefit the account is established—

(A) To the extent that the amount of the assets involved in the purchase are not attributable to the purchase of life insurance, the purchase is treated as a rollover contribution described in subdivision (d) (3), and

(B) To the extent that the amount of the assets involved in the purchase are attributable to the purchase of life, health, accident, or other insurance, such amounts are treated as distributed to that individual (but the provisions of subdivision (f) do not apply).

(7) Any common trust fund or common investment fund of individual retirement account assets which is exempt from taxation under this part does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under Section 17631 which is described in Section 17501.

(f) (1) If a distribution from an individual retirement account or under an individual retirement annuity to the individual for whose benefit such account or annuity was established is made before such individual attains age 59½, his tax under this article for the taxable year in which such distribution is received shall be increased by an amount equal to 2.5 percent of the amount of distribution which is includable in his gross income for such taxable year.

(2) If an amount is includable in gross income for a taxable year under subdivision (e) and the taxpayer has not attained age 59½ before the beginning of such taxable year, his tax under this article for such taxable year shall be increased by an amount equal to 2.5 percent of such amount so required to be included in his gross income

(3) Paragraphs (1) and (2) do not apply if the amount paid or distributed, or the disqualification of the account or annuity under subdivision (e), is attributable to the taxpayer becoming disabled within the meaning of Section 17112.5(f).

(g) For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in Section 17502.3(a)) or another person who demonstrates, to the satisfaction of the Franchise Tax Board, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an individual retirement account described in subdivision (a). For purposes of this part, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof

(h) The trustee of an individual retirement account and the issuer of an endowment contract described in subdivision (b) or an individual retirement annuity shall make such reports regarding such account, contract, or annuity to the Franchise Tax Board and to the individuals for whom the account, contract, or annuity is, or is to be, maintained with respect to contributions, distributions, and such

other matters as the Franchise Tax Board may require under regulations. The reports required by this subdivision shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

SEC. 61 Section 17530.1 of the Revenue and Taxation Code is amended to read:

17530.1. (a) For purposes of this section and Section 17240(a), the term "retirement bond" means a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary of the Treasury of the United States or his delegate under such act—

(1) Provides for payment of interest, or investment yield, only on redemption;

(2) Provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after the date of its issuance,

(3) Provides that it ceases to bear interest, or provide investment yield on the earlier of—

(A) The date on which the individual in whose name it is purchased (hereinafter in this section referred to as the "registered owner") attains age 70½; or

(B) Five years after the date on which the registered owner dies, but not later than the date on which he would have attained the age 70½ had he lived,

(4) Provides that, except in the case of a rollover contribution described in subdivision (b)(3)(C) or in Section 17503(d), 17511(e), or 17530(d)(3), the registered owner may not contribute for the purchase of such bonds in excess of one thousand five hundred dollars ($1,500) for any taxable year; and

(5) Is not transferable.

(b) (1) Except as otherwise provided in this subdivision, on the redemption of a retirement bond the entire proceeds shall be included in the gross income of the taxpayer entitled to the proceeds on redemption. If the registered owner has not tendered it for redemption before the close of the taxable year in which he attains age 70½, such individual shall include in his gross income for such taxable year the amount of proceeds he would have received if the bond had been redeemed at age 70½. The provisions of Sections 17101 to 17112.7, inclusive, and Sections 18183 to 18185, inclusive (relating to bonds and other evidences of indebtedness) shall not apply to a retirement bond

(2) The basis of a retirement bond is zero

(3) Exceptions.

(A) If a retirement bond is redeemed within 12 months after the date of its issuance, the proceeds are excluded from gross income if no deduction is allowed under Section 17240 on account of the purchase of such bond.

(B) If a retirement bond is redeemed after the close of the taxable year in which the registered owner attains age 70½, the proceeds

from the redemption of the bond are excluded from the gross income of the registered owner to the extent that such proceeds were includable in his gross income for such taxable year.

(C) If a retirement bond is redeemed at any time before the close of the taxable year in which the registered owner attains age 70½, and the registered owner transfers the entire amount of the proceeds from the redemption of the bond to an individual retirement account described in Section 17530(a) or to an individual retirement annuity described in Section 17530(b) (other than an endowment contract) which is maintained for the benefit of the registered owner of the bond, or to an employees' trust described in Section 17501 which is exempt from tax under Section 17631, or an annuity plan described in Section 17511 for the benefit of the registered owner, on or before the 60th day after the day on which he received the proceeds of such redemption, then the proceeds shall be excluded from gross income and the transfer shall be treated as a rollover contribution described in Section 17511(e). This subparagraph does not apply in the case of a transfer to such an employees' trust or such an annuity plan unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such an employees' trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of Section 17502.2(a) at the time contributions were made on his behalf under the plan).

(c) (1) If a retirement bond is redeemed by the registered owner before he attains age 59½, his tax under this article for the taxable year in which the bond is redeemed shall be increased by an amount equal to 2.5 percent of the amount of the proceeds of the redemption includable in his gross income for the taxable year

(2) Paragraph (1) does not apply for any taxable year during which the retirement bond is redeemed if, for that taxable year, the registered owner is disabled within the meaning of Section 17112.5(f).

(3) Paragraph (1) does not apply if the registered owner tenders the bond for redemption within 12 months after the date of its issuance.

SEC. 62. Section 17530.4 of the Revenue and Taxation Code is amended to read:

17530.4 (a) (1) A trust which is a part of a pension, profit-sharing, or stock bonus plan shall not constitute a qualified trust under Section 17501, if—

(A) In the case of a defined benefit plan, the plan provides for the payment of benefits with respect to a participant which exceed the limitation of subdivision (b).

(B) In the case of a defined contribution plan, contributions and other additions under the plan with respect to any participant for any taxable year exceed the limitation of subdivision (c), or

(C) In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by

the employer, the trust has been disqualified under subdivision (g).

(2) Except as provided in paragraph (3), in the case of—

(A) An employee annuity plan described in Section 17511,

(B) An annuity contract described in Section 17512,

(C) An individual retirement account described in Section 17530(a),

(D) An individual retirement annuity described in Section 17530(b),

(E) A plan described in Section 17526, or

(F) A retirement bond described in Section 17530.1, such contract, annuity plan, account, annuity, plan, or bond shall not be considered to be described in Section 17511, 17512, 17526, 17530(a), 17530(b) or 17530.1, as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subdivision (g). In the case of an annuity contract described in Section 17512, the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subdivision (b) or the limitation of subdivision (c), whichever is appropriate, and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in Section 17512.

(3) Paragraph (2) shall not apply for any year to an account, annuity, or bond described in Section 17530(a), 17530(b), or 17530.1, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under Section 17241 to such individual with respect to such contribution for such year.

(b) (1) Benefits with respect to a participant exceed the limitation of this subdivision if, when expressed as an annual benefit (within the meaning of paragraph (2)), such annual benefit is greater than the lesser of—

(A) Seventy-five thousand dollars ($75,000), or

(B) One hundred percent of the participant's average compensation for his high three years

(2) (A) For purposes of paragraph (1), the term "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1) are made.

(B) If the benefit under the plan is payable in any form other than the form described in subparagraph (A), or if the employees contribute to the plan or make rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1), the determinations as to whether the limitation described in paragraph (1) has been satisfied shall be made, in accordance with regulations prescribed by the Franchise Tax Board, by adjusting such benefit so that it is equivalent to the benefit described in subparagraph (A). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that

portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in Section 17501) shall not be taken into account.

(C) If the retirement income benefit under the plan begins before age 55, the determination as to whether the limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Franchise Tax Board, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 55.

(3) For purposes of paragraph (1), a participant's high three years shall be the period of consecutive calendar years (not more than three) during which the participant both was an active participant in the plan and had the greatest aggregate compensation from the employer. In the case of an employee within the meaning of Section 17502.2, the preceding sentence shall be applied by substituting for "compensation from the employer" the following· "the participant's earned income (within the meaning of Section 17502.2 but determined without regard to any exclusion under Section 911 of the Internal Revenue Code of 1954)."

(4) Notwithstanding the preceding provisions of this subdivision, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitation of this subdivision if—

(A) The retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed ten thousand dollars ($10,000) for the plan year, or for any prior plan year, and

(B) The employer has not at any time maintained a defined contribution plan in which the participant participated.

(5) In the case of an employee who has less than 10 years of service with the employer, the limitation referred to in paragraph (1), and the limitation referred to in paragraph (4), shall be the limitation determined under such paragraph (without regard to this paragraph), multiplied by a fraction, the numerator of which is the number of years (or part thereof) of service with the employer and the denominator of which is 10.

(6) The computation of—

(A) Benefits under a defined contribution plan, for purposes of Section 17501(d),

(B) Contributions made on behalf of a participant in a defined benefit plan, for purposes of Section 17501(d), and

(C) Contributions and benefits provided for a participant in a plan described in Section 414(k) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), for purposes of this section

shall not be made on a basis inconsistent with regulations prescribed by the Franchise Tax Board.

(c) (1) Contributions and other additions with respect to a participant exceed the limitation of this subdivision, if, when

expressed as an annual addition (within the meaning of paragraph (2)) to the participant's account, such annual addition is greater than the lesser of—

(A) Twenty-five thousand dollars ($25,000), or

(B) Twenty-five percent of the participant's compensation.

(2) For purposes of paragraph (1), the term "annual addition" means the sum for any year of—

(A) Employer contributions,

(B) The lesser of—

(i) The amount of the employee contributions in excess of 6 percent of his compensation, or

(ii) One-half of the employee contributions, and

(C) Forfeitures.

For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1).

(3) For purposes of paragraph (1), the term "participant's compensation" means the compensation of the participant from the employer for the year. In the case of an employee within the meaning of Section 17502.2, the preceding sentence shall be applied by substituting for "compensation of the participant from the employer" the following: "the participant's earned income (within the meaning of Section 17502.2 but determined without regard to any exclusion under Section 911 of the Internal Revenue Code of 1954)."

(4) (A) In the case of amounts contributed for an annuity contract described in Section 17512 for the year in which occurs a participant's separation from the service with an educational institution, a hospital, or a home health service agency, at the election of the participant there is substituted for the amount specified in paragraph (1) (B) the amount of the exclusion allowance which would be determined under Section 17512 (without regard to this section) for the participant's taxable year in which such separation occurs if the participant's years of service were computed only by taking into account his service for the employer during the period of years (not exceeeding 10) ending on the date of such separation.

(B) In the case of amounts contributed for an annuity contract described in Section 17512 for any year in the case of a participant who is an employee of an educational institution, a hospital, or a home health service agency, at the election of the participant there is substituted for the amount specified in paragraph (1) (B) the least of—

(i) Twenty-five percent of the participant's includable compensation (as defined in Section 17512) plus four thousand dollars ($4,000),

(ii) The amount of the exclusion allowance determined for the year under Section 17512, or

(iii) fifteen thousand dollars ($15,000).

(C) In the case of amounts contributed for an annuity contract described in Section 17512 for any year for a participant who is an employee of an educational institution, a hospital, or a home health service agency, at the election of the participant the provisions of Section 17512(a)(2) shall not apply.

(D) (i) The provisions of this paragraph apply only if the participant elects its application at the time and in the manner provided under regulations prescribed by the Franchise Tax Board. Not more than one election may be made under subparagraph (A) by any participant. A participant who elects to have the provisions of subparagraph (A), (B), or (C) of this paragraph apply to him may not elect to have any other subparagraph of this paragraph apply to him. Any election made under this paragraph is irrevocable.

(ii) For purposes of this paragraph the term "educational institution" means an educational institution as defined in Section 151(e)(4) of the Internal Revenue Code of 1954.

(iii) For purposes of this paragraph the term "home health service agency" means an organization described in subsection 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from tax under Section 501(a) of the Internal Revenue Code of 1954 and which has been determined by the Secretary of Health, Education, and Welfare to be a home health agency (as defined in Section 1861(o) of the Social Security Act).

(5) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2(a), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under Section 17524 with respect to any individual who is an employee within the meaning of Section 17502.2(a).

(6) Paragraph (1)(B) shall not apply to a contribution described in Section 17502.4 which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of Section 17502.2(c)), if—

(A) The annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

(B) The participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

For purposes of this section and Section 17502.4, in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy Section 17501(d) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B).

(d) (1) The Franchise Tax Board shall adjust annually—

(A) The amount in subdivision (b)(1)(A),

(B) The amount in subdivision (c)(1)(A), and

(C) In the case of a participant who is separated from service, the amount taken into account under subdivision (b) (1) (B), for increases in the cost of living in accordance with regulations prescribed by the Franchise Tax Board Such regulations shall provide for adjustment procedures which are similar to the procedures used to adjust primary insurance amounts under Section 215(i) (2) (A) of the Social Security Act.

(2) The base period taken into account—

(A) For purposes of subparagraphs (A) and (B) of paragraph (1) is the calendar quarter beginning October 1, 1974, and

(B) For purposes of subparagraph (C) of paragraph (1) is the last calendar quarter of the calendar year before the calendar year in which the participant is separated from service.

(e) (1) In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the same employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year may not exceed 1.4.

(2) For purposes of this subdivision, the defined benefit plan fraction for any year is a fraction—

(A) The numerator of which is the projected annual benefit of the participant under the plan (determined as of the close of the year), and

(B) The denominator of which is the projected annual benefit of the participant under the plan (determined as of the close of the year) if the plan provided the maximum benefit allowable under subsection (b).

(3) Defined contribution plan fraction. For purposes of this subdivision, the defined contribution plan fraction for any year is a fraction—

(A) The numerator of which is the sum of the annual additions to the participant's account as of the close of the year, and

(B) The denominator of which is the sum of the maximum amount of annual additions to such account which could have been made under subdivision (c) for such year and for each prior year of service with the employer.

(4) In applying paragraph (3) with respect to years beginning before January 1, 1976—

(A) The aggregate amount taken into account under paragraph (3) (A) may not exceed the aggregate amount taken into account under paragraph (3) (B), and

(B) The amount taken into account under subdivision (c) (2) (B) (i) for any year concerned is an amount equal to—

(i) The excess of the aggregate amount of employee contributions for all years beginning before January 1, 1976, during which the employee was an active participant of the plan, over 10 percent of the employee's aggregate compensation for all such years, multiplied by

(ii) A fraction the numerator of which is 1 and the denominator

of which is the number of years beginning before January 1, 1976, during which the employee was an active participant in the plan. Employee contributions made on or after October 2, 1973, shall be taken into account under subparagraph (B) of the preceding sentence only to the extent that the amount of such contributions does not exceed the maximum amount of contributions permissible under the plan as in effect on October 2, 1973.

(5) For purposes of this subdivision, any annuity contract described in Section 17512 (except in the case of a participant who has elected under subdivision (c) (4) (D) to have the provisions of subdivision (c) (4) (C) apply), any individual retirement account described in Section 17530(a), any individual retirement annuity described in Section 17530(b), and any retirement bond described in Section 17530.1, for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subdivision (b) or (c) of Section 414 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P L. 93-406) (as modified by subdivision (h)). In the case of any annuity contract described in Section 17512, the amount of the contribution disqualified by reason of subdivision (g) shall reduce the exclusion allowance as provided in Section 17512.

(f) (1) For purposes of applying the limitations of subdivisions (b), (c), and (e)—

(A) All defined benefit plans (whether or not terminated) of an employer are to be treated as one defined benefit plan, and

(B) All defined contribution plans (whether or not terminated) of an employer are to be treated as one defined contribution plan.

(2) If the employer has more than one defined benefit plan—

(A) Subdivision (b) (1) (B) shall be applied separately with respect to each such plan, but

(B) In applying (b) (1) (B) to the aggregate of such defined benefit plans for purposes of this subdivision, the high three years of compensation taken into account shall be the period of consecutive calendar years (not more than three) during which the individual had the greatest aggregate compensation from the employer.

(g) The Franchise Tax Board, in applying the provisions of this section to benefits or contributions under more than one plan maintained by the same employer, and to any trusts, contracts, accounts, or bonds referred to in subdivision (a) (2), with respect to which the participant has the control required under Section 414(b) or (c) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L 93-406), as modified by subdivision (h), shall, under regulations prescribed by the Franchise Tax Board, disqualify one or more trusts, plans, contracts, accounts, or bonds, or any combination thereof until such benefits or contributions do not exceed the limitations contained in this section. In addition to taking into account such other factors as may be necessary to carry out the purposes of subdivisions (e) and

(f), the regulations prescribed under this paragraph shall provide that no plan which has been terminated shall be disqualified until all other trusts, plans, contracts, accounts, or bonds have been disqualified.

(h) For purposes of applying subdivisions (b) and (c) of Section 414 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) to this section, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(i) Where for the period before January 1, 1976, or (if later) the first day of the first plan year of the plan, the records necessary for the application of this section are not available, the Franchise Tax Board may by regulations prescribe alternative methods for determining the amounts to be taken into account for such period.

(j) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section, including, but not limited to, regulations defining the term "year" for purposes of any provision of this section.

(k) (1) For purposes of this article, the term "defined contribution plan" or "defined benefit plan" means a defined contribution plan (within the meaning of Section 414(i) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L 93-406)) or a defined benefit plan (within the meaning of Section 414(j) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)), whichever applies, which is—

(A) A plan described in Section 17501 which includes a trust which is exempt from tax under Section 17631,

(B) An annuity plan described in Section 17511,

(C) A qualified bond purchase plan described in Section 17526,

(D) An annuity contract described in Section 17512,

(E) An individual retirement account described in Section 17530(a),

(F) An individual retirement annuity described in Section 17530(b), or

(G) An individual retirement bond described in Section 17530.1.

SEC. 63. Section 17532 of the Revenue and Taxation Code is amended to read:

17532. (a) Subject to the provisions of subsection (c)(1), Section 17531(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise of a qualified stock option if—

(1) No disposition of such share is made by such individual within the three-year period beginning on the day after the day of the transfer of such share, and

(2) At all times during the period beginning with the date of the

granting of the option and ending on the day three months before the date of such exercise, such individual was an employee of either the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which Section 17535(a) applies.

(b) For purposes of this article, the term "qualified stock option" means an option granted to an individual after December 31, 1963 (other than a restricted stock option granted pursuant to a contract described in Section 17534(c)(3)(A)), and before May 21, 1976 (or, if it meets the requirements of subdivision (c)(7), granted to an individual after May 20, 1976), for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but only if—

(1) The option is granted pursuant to a plan which includes the aggregate number of shares which may be issued under options, and the employees (or class of employees) eligible to receive options, and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted;

(2) Such option is granted within 10 years from the date such plan is adopted, or the date such plan is approved by the stockholders, whichever is earlier;

(3) Such option by its terms is not exercisable after the expiration of five years from the date such option is granted;

(4) Except as provided in subsection (c)(1), the option price is not less than the fair market value of the stock at the time such option is granted;

(5) Such option by its terms is not exercisable while there is outstanding (within the meaning of subsection (c)(2)) any qualified stock option (or restricted stock option) which was granted before the granting of such option, to such individual to purchase stock in his employer corporation or in a corporation which (at the time of the granting of such option) is a parent or subsidiary corporation of the employer corporation, or in a predecessor corporation of any of such corporations;

(6) Such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and

(7) Such individual, immediately after such option is granted, does not own stock possessing more than 5 percent of the total combined voting power or value of all classes of stock of the employer corporation or of its parent or subsidiary corporation; except that if the equity capital of such corporation or corporations (determined at the time the option is granted) is less than two million dollars ($2,000,000), then, for purposes of applying the limitation of this paragraph, there shall be added to such 5 percent the percentage (not higher than 5 percent) which bears the same

ratio to 5 percent as the difference between such equity capital and two million dollars ($2,000,000) bears to one million dollars ($1,000,000)

(c) (1) If a share of stock is transferred pursuant to the exercise by an individual of an option which fails to qualify as a qualified stock option under subsection (b) because there was a failure in an attempt, made in good faith, to meet the requirement of subsection (b) (4), the requirement of subsection (b) (4) shall be considered to have been met, but there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income for the taxable year in which such option is exercised, an amount equal to the lesser of—

(A) One hundred fifty percent of the difference between the option price and the fair market value of the share at the time the option was granted, or

(B) The difference between the option price and the fair market value of the share at the time of such exercise. The basis of the share acquired shall be increased by an amount equal to the amount included in his gross income under this paragraph in the taxable year in which the exercise occurred

(2) For purposes of subsection (b) (5)—

(A) Any restricted stock option which is not terminated before January 1, 1965, and

(B) Any qualified stock option granted after December 31, 1963, shall be treated as outstanding until such option is exercised in full or expires by reason of the lapse of time. For purposes of the preceding sentence, a restricted stock option granted before January 1, 1964, shall not be treated as outstanding for any period before the first day on which (under the terms of such option) it may be exercised.

(3) For purposes of subsection (b) (7)—

(A) The term "equity capital" means—

(i) In the case of one corporation, the sum of its money and other property (in an amount equal to the adjusted basis of such property for determining gain), less the amount of its indebtedness (other than indebtedness to shareholders), and

(ii) In the case of a group of corporations consisting of a parent and its subsidiary corporations, the sum of the equity capital of each of such corporations adjusted, under regulations prescribed by the Franchise Tax Board, to eliminate the effect of intercorporate ownership and transactions among such corporations,

(B) The rules of Section 17535(d) shall apply in determining the stock ownership of the individual; and

(C) Stock which the individual may purchase under outstanding options shall be treated as stock owned by such individual. If an individual is granted an option which permits him to purchase stock in excess of the limitation of subsection (b) (7) (determined by applying the rules of this paragraph), such option shall be treated as meeting the requirement of subsection (b) (7) to the extent that

such individual could if the option were fully exercised at the time of grant, purchase stock under such option without exceeding such limitation. The portion of such option which is treated as meeting the requirement of subsection (b) (7) shall be deemed to be that portion of the option which is first exercised.

(4) If—

(A) An individual who has acquired a share of stock by the exercise of a qualified stock option makes a disposition of such share within the three-year period described in subsection (a) (1), and

(B) Such disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to such individual,

then the amount which is includable in the gross income of such individual, as compensation attributable to the exercise of such option shall not exceed the excess (if any) of the amount realized on such sale or exchange over the adjusted basis of such share

(5) If an insolvent individual holds a share of stock acquired pursuant to his exercise of a qualified stock option, and if such share is transferred to a trustee, receiver, or other similar fiduciary, in any proceeding under the Bankruptcy Act or any other similar insolvency proceeding, neither such transfer, nor any other transfer of such share for the benefit of his creditors in such proceeding, shall constitute a "disposition of such share" for purposes of subsection (a) (1).

(6) The requirement of subsection (b) (5) shall be considered to have been met in the case of any option (referred to in this paragraph as "new option") granted to an individual if—

(A) The new option and all outstanding options referred to in subsection (b) (5) are to purchase stock of the same class in the same corporation, and

(B) The new option by its terms is not exercisable while there is outstanding (within the meaning of paragraph (2)) any qualified stock option (or restricted stock option) which was granted, before the granting of the new option, to such individual to purchase stock in such corporation at a price (determined as of the date of grant of the new option) higher than the option price of the new option.

(7) For purposes of subdivision (b), an option granted after May 20, 1976, meets the requirements of this paragraph—

(A) If such option is granted to an individual pursuant to a written plan adopted before May 21, 1976, or

(B) If such option is a new option substituted in a transaction to which Section 17535(a) applies, for an old option which was granted before May 21, 1976, or which met the requirements of subparagraph (A). An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981.

SEC. 64. Section 17534 of the Revenue and Taxation Code is amended to read:

17534. (a) Section 17531(a) shall apply with respect to the

transfer of a share of stock to an individual pursuant to his exercise after December 31, 1950, of a restricted stock option, if—

(1) No disposition of such share is made by him within two years from the date of the granting of the option nor within six months after the transfer of such share to him, and

(2) At the time he exercises such option—

(A) He is an employee of either the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which Section 17535(a) applies, or

(B) He ceased to be an employee of such corporations within the three-month period preceding the time of exercise.

(b) For purposes of this article, the term "restricted stock option" means an option granted after February 26, 1945, and before January 1, 1964 (or, if it meets the requirements of subsection (c)(3), an option granted after December 31, 1963), to an individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but only if—

(1) At the time such option is granted—

(A) The option price is at least 85 percent of the fair market value at such time of the stock subject to the option, or

(B) In the case of a variable price option, the option price (computed as if the option had been exercised when granted) is at least 85 percent of the fair market value of the stock at the time such option is granted

(2) Such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him;

(3) Such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation. This paragraph shall not apply if at the time such option is granted the option price is at least 110 percent of the fair market value of the stock subject to the option, and such option either by its terms is not exercisable after the expiration of five years from the date such option is granted or is exercised within one year after June 6, 1955. For purposes of this paragraph, the provisions of Section 17535(d) shall apply in determining the stock ownership of an individual; and

(4) Such option by its terms is not exercisable after the expiration of 10 years from the date such option is granted, if such option has been granted on or after December 31, 1954.

(c)(1) If no disposition of a share of stock acquired by an individual on his exercise after December 31, 1950, of a restricted stock option is made by him within two years from the date of the granting of the option, nor within six months after the transfer of such share to him, but, at the time the restricted stock option was

granted, the option price (computed under subsection (b) (1)) was less than 95 percent of the fair market value at such time of such share, then, in the event of any disposition of such share by him, or in the event of his death (whenever occurring) while owning such share, there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income, for the taxable year in which falls the date of such disposition or for the taxable year closing with his death, whichever applies—

(A) In the case of a share of stock acquired under an option qualifying under subsection (b) (1) (A), an amount equal to the amount (if any) by which the option price is exceeded by the lesser of—

(i) The fair market value of the share at the time of such disposition or death, or

(ii) The fair market value of the share at the time the option was granted; or

(B) In the case of stock acquired under an option qualifying under subsection (b) (1) (B), an amount equal to the lesser of—

(i) The excess of the fair market value of the share at the time of such disposition or death over the price paid under the option, or

(ii) The excess of the fair market value of the share at the time the option was granted over the option price (computed as if the option had been exercised at such time).

In the case of a disposition of such share by the individual, the basis of the share in his hands at the time of such disposition shall be increased by an amount equal to the amount so includable in his gross income.

(2) For purposes of subsection (b) (1), the term "variable price option" means an option under which the purchase price of the stock is fixed or determinable under a formula in which the only variable is the fair market value of the stock at any time during a period of six months which includes the time the option is exercised; except that in the case of options granted after December 31, 1960, such term does not include any such option in which such formula provides for determining such price by reference to the fair market value of the stock at any time before the option is exercised if such value may be greater than the average fair market value of the stock during the calendar months in which the option is exercised.

(3) For purposes of subsection (b), an option granted after December 31, 1963, meets the requirements of this paragraph if granted pursuant to—

(A) A binding written contract entered into before January 1, 1964, or

(B) A written plan adopted and approved before January 1, 1964, which (as of January 1, 1964, and as of the date of the granting of the option)—

(i) Met the requirements of paragraph (4) and (5) of Section 17533(b), or

(ii) Was being administered in a way which did not discriminate in favor of officers, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981.

SEC. 65. Section 17571 of the Revenue and Taxation Code is amended to read:

17571. (a) The amount of any item of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the method of accounting used in computing taxable income, such amount is to be properly accounted for as of a different period.

(b) In the case of the death of a taxpayer whose taxable income is computed under an accrual method of accounting, any amount accrued only by reason of the death of the taxpayer shall not be included in computing taxable income for the period in which falls the date of the taxpayer's death.

(c) (1) In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the taxable year following the taxable year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following taxable year. For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (A) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (B) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops.

An election under this section for any income year shall be made at such time and in such manner as the Franchise Tax Board prescribes.

(2) The amendment made to paragraph (1) of this subdivision by the 1977–78 Regular Session of the Legislature shall apply to payments received after taxable years beginning after December 31, 1976.

(d) (1) In the case of income derived from the sale or exchange of livestock (other than livestock described in Section 18182(b)) in excess of the number the taxpayer would sell if he followed his usual business practices a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the taxable year following the taxable year in which such sale or exhange occurs if he establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the federal government.

(2) This subdivision shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of Section 6420(c)(3) of the Internal Revenue Code of 1954).

SEC. 66. Section 17595 is added to the Revenue and Taxation Code, to read:

17595. (a) (1) If the taxable income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Franchise Tax Board, is properly allocable to any period—

(A) With respect to which the interest represents a charge for the use or forbearance of money, and

(B) Which is after the close of the taxable year in which paid, shall be charged to capital account and shall be treated as paid in the period to which so allocable

(2) This section shall not apply to points paid in respect of any indebtedness incurred in connection with the purchase or improvement of, and secured by, the principal residence of the taxpayer to the extent that, under regulations prescribed by the Franchise Tax Board, such payment of points is an established business practice in the area in which such indebtedness is incurred, and the amount of such payment does not exceed the amount generally charged in such area.

(b) (1) Except as provided in paragraph (2), subdivision (a) shall apply to amounts paid in taxable years beginning after December 31, 1976

(2) Subdivision (a) shall not apply to amounts paid before January 1, 1978, pursuant to a binding contract or written loan commitment which existed on September 16, 1975 (and at all times thereafter), and which required prepayment of such amounts by the taxpayer.

SEC. 67. Section 17599 is added to the Revenue and Taxation Code, to read:

17599. (a) In the case of a taxpayer engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subdivision (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

(b) (1) For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

(A) The amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

(B) Amounts borrowed with respect to such activity (as determined under paragraph (2)).

(2) For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

(A) Is personally liable for the repayment of such amounts, or

(B) Has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in such property).

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

(3) For purposes of subparagraph (B) of paragraph (1), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

(A) Has an interest (other than an interest as a creditor) in such activity, or

(B) Has a relationship to the taxpayer specified within any one of the paragraphs of Section 17288.

(4) Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements

(5) If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considered to be at risk (within the meaning of subdivision (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subdivision (a)) is allowable as a deduction.

(c) (1) This section applies to any taxpayer engaged in the activity of—

(A) Holding, producing, or distributing motion picture films or video tapes,

(B) Farming (as defined in Section 17599.1(e)),

(C) Leasing any Section 18211 property (as defined in paragraph (3) of subdivision (a) of Section 18211), or

(D) Exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income.

(2) For purposes of this section, a taxpayer's activity with respect to each—

(A) Film or video tape,

(B) Section 18211 property which is leased or held for leasing,

(C) Farm, or

(D) Oil and gas property (as defined under Section 614 of the Internal Revenue Code of 1954),

shall be treated as a separate activity. A partner's interest in a partnership shall be treated as a single activity to the extent that the partnership is engaged in activities described in any subparagraph of this paragraph.

(d) For purposes of this section, the term "loss" means the excess of the deductions allowable under this part for the taxable year (determined without regard to this section) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity.

(e) Except as provided in paragraphs (1) and (2), this section

shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1976 For purposes of this section, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.

(1) (A) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to—

(i) Deductions for depreciation or amortization with respect to property the principal production of which began before January 1, 1977, and for the purchase of which there was on January 1, 1977, and at all times thereafter a binding contract, and

(ii) Deductions attributable to producing or distributing property the principal production of which began before January 1, 1977.

(B) In the case of any activity described in subparagraph (A) of paragraph (1) of subdivision (c), this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1976, if—

(i) On December 31, 1976, there was an agreement with the director or a principal motion picture star, or on or before December 31, 1976, there had been expended (or committed to the production) an amount not less than the lower of one hundred thousand dollars ($100,000) or 10 percent of the estimated costs of producing the film, and

(ii) The production takes place in the United States. Subparagraph (A) shall apply only to taxpayers who held their interests on December 31, 1976. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1976.

(3) (A) In the case of any activity described in subparagraph (B) of paragraph (1) of subdivision (c) of this section shall not apply with respect to—

(i) Leases entered into before January 1, 1977, and

(ii) Leases where the property was ordered by the lessor or lessee before January 1, 1977

(B) Subparagraph (A) shall apply only to taxpayers who held their interest in the property on December 31, 1976.

SEC. 68 Section 17599 1 is added to the Revenue and Taxation Code, to read·

17599.1. (a) In the case of any farming syndicate (as defined in subdivision (c)), a deduction (otherwise allowable under this part) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed for the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, in the taxable year for which allowable as a deduction (determined without regard to this section).

(b) In the case of any farming syndicate (as defined in subdivision (c))—

(1) The cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted

ratably over the lesser of 12 months or their useful life in the trade or business, and

(2) The cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

(c) (1) For purposes of this section, the term "farming syndicate" means—

(A) A partnership or any other enterprise other than a corporation engaged in the trade or business of farming, if at any time interests in such partnership or enterprise have been offered for sale in any offering required to be registered with any federal or state agency having authority to regulate the offering of securities for sale, or

(B) A partnership or any other enterprise other than a corporation engaged in the trade or business of farming, if more than 35 percent of the losses during any period are allocable to limited partners or limited entrepreneurs.

(2) For purposes of subparagraph (B) of paragraph (1), the following shall be treated as an interest which is not held by a limited partner or a limited entrepreneur:

(A) In the case of any individual who has actively participated (for a period of not less than five years) in the management of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation,

(B) In the case of any individual whose principal residence is on a farm, any partnership or other enterprise engaged in the trade or business of farming such farm,

(C) In the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in subparagraph (A) or (B), any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in subparagraph (A) or (B)),

(D) In the case of an individual whose principal business activity involves active participation in the management of a trade or business of farming, any interest in any other trade or business of farming, and

(E) Any interest held by a member of the family (within the meaning of Section 17289) of a grandparent of an individual described in subparagraph (A), (B), (C), or (D) if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in subparagraph (A), (B), (C), or (D).

For purposes of subparagraph (A), where one farm is substituted for or added to another farm, both farms shall be treated as one farm.

(d) Subdivision (a) shall not apply to—

(1) Any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

(2) Any amount required to be charged to capital account under

Section 17235

(e) For purposes of this section—

(1) The term "farming" means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.

(2) The term "limited entrepreneur" means a person who—

(A) Has an interest in an enterprise other than as a limited partner, and

(B) Does not actively participate in the management of such enterprise.

SEC. 69. Section 17675 of the Revenue and Taxation Code is amended to read·

17675 No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

SEC 70. Section 17731 of the Revenue and Taxation Code is amended to read·

17731 (a) The taxes imposed by this part on individuals shall apply to the taxable income of estates or of any kind of property held in trust, including—

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust,

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated

(b) The taxable income of an estate or trust shall be computed in the same manner as in the case of an individual, except as otherwise provided in this chapter The tax shall be computed on such taxable income and shall be paid by the fiduciary

(c) (1) For purposes of this part, the taxable income of a trust does not include the amount of any includable gain as defined in Section 17747(b) reduced by any deductions properly allocable thereto

(2) For the taxation of any includable gain, see Section 17747.

SEC. 70 5 Section 17671 of the Revenue and Taxation Code is amended to read.

17671. For purposes of this part, the term "common trust fund"

means a fund maintained by a bank—

(a) Exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian, or as a custodian of accounts which are established pursuant to a state law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute; and

(b) In conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks; or

(c) A fund established and operated in accordance with the provisions of the Bank Act by a trust company, bank, or other corporation qualified under the Bank Act to engage in the trust business in California.

For purposes of this section, two or more banks which are members of the same affiliated group, as defined in the rules and regulations referred to in subdivision (b), shall be treated as one bank for the period of affiliation with respect to any fund of which any of the member banks is trustee or two or more of the member banks are cotrustees.

SEC. 71. Section 17736 of the Revenue and Taxation Code is amended to read:

17736. The benefit of the deductions for amortization of emergency, grain storage, or atomic energy facilities provided by Sections 17226 and 17228 shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Franchise Tax Board.

SEC. 72. Section 17746 of the Revenue and Taxation Code is amended to read:

17746. Amounts allowable, under Section 13988 or 13988.1 of this code, as a deduction in determining the net amount subject to inheritance tax shall not be allowed as a deduction (or as an offset against the sales price of property in determining gain or loss) in computing the taxable income of the estate, or of any other person, unless there is filed, within the time and in the manner and form prescribed by the Franchise Tax Board, a statement that the amounts have not been allowed as deductions under Section 13988 or 13988.1 and a waiver of the right to have such amounts allowed at any time as deductions under Section 13988 or 13988.1. This section shall not apply with respect to deductions allowed under Article 7 (relating to income in respect of decedents).

SEC. 73. Section 17747 is added to the Revenue and Taxation Code, to read:

11747. (a) (1) If—

(A) A trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than two years after the date of the initial transfer of the property in

trust by the transferor, and

(B) The fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includable gain realized on such sale or exchange.

(2) The amount of the tax imposed by paragraph (1) on any includable gain realized on the sale or exchange of any property shall be equal to the sum of—

(A) The excess of—

(i) The tax which would have been imposed under this part for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includable gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

(ii) The tax actually imposed under this part for such taxable year on the transferor, plus

(B) If such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under Section 18686.

(3) The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

(4) The tax imposed by this section for any taxable year of the trust shall be in addition to any other tax imposed by this part for such taxable year.

(b) For purposes of this section, the term "includable gain" means the lesser of—

(1) The gain realized by the trust on the sale or exchange of any property, or

(2) The excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the adjusted basis of such property immediately after such transfer.

(c) For purposes of subdivision (a)—

(1) The character of the includable gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

(2) The portion of the includable gain subject to the provisions of Section 18211 and Sections 18212 to 18218, inclusive, shall be determined in accordance with regulations prescribed by the Franchise Tax Board

(d) If the trust sells the property referred to in subdivision (a) in a short sale within the two-year period referred to in such subdivision such two-year period shall be extended to the date of the closing of

such short sale.

(e) Subdivision (a) shall not apply to property—

(1) Acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of Section 18044), or

(2) Acquired by a pooled income fund (as defined in Section 17734(e)), or

(3) Acquired by a charitable remainder annuity trust (as defined in Section 17763.1(d)(1)) or a charitable remainder unitrust (as defined in Section 17763.1(d)(2) and (3)), or

(4) If the sale or exchange of the property occured after the death of the transferor

(f) If the trust elects to report income under Section 17577 or 17578 on any sale or exchange to which subdivision (a) applies, under regulations prescribed by the Franchise Tax Board—

(1) Subdivision (a) shall be applied if each installment were a separate sale or exchange of property to which such subdivision applies, and

(2) The term "includable gain" shall not include any portion of an installment received by the trust after the death of the transferor.

(g) This section shall apply to transfer in trusts made after taxable years beginning after December 31, 1976

SEC. 74 Section 17771 of the Revenue and Taxation Code is amended to read:

17771. (a) For purposes of this article, the term "undistributed net income" for any taxable year means the amount by which the distributable net income of the trust for such taxable year exceeds the sum of—

(1) The amounts for such taxable year specified in paragraphs (1) and (2) of subdivision (a) of Section 17761, and

(2) The amount of taxes imposed on the trust attributable to such distributable net income.

(b) For purposes of this article, the term "accumulation distribution" for any taxable year of the trust means the amount by which the amounts specified in paragraph (2) of subdivision (a) of Section 17761 for such taxable year, exceed distributable net income for such year reduced (but not below zero) by the amounts specified in paragraph (1) of subdivision (a) of Section 17761.

For purposes of Section 17775 (other than subdivision (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of Section 17761 shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 18 If the amounts properly paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year.

(c) For purposes of this article, the term "taxes imposed on the trust" means the amount of the taxes which are imposed for any taxable year of the trust under this part (without regard to this

article) and which, under regulations prescribed by the Franchise Tax Board, are properly allocable to the undistributed portions of the distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under Sections 17773, 17774, or subdivisions (d) and (e) of Section 17777, to any beneficiary.

(d) For purposes of this article, the term "preceding taxable year" does not include any taxable year of the trust—

(1) Which precedes by more than five years the taxable year of the trust in which an accumulation distribution is made, if it is made in a taxable year beginning before January 1, 1974, or

(2) Which begins before January 1, 1969, in the case of an accumulation distribution made during a taxable year beginning after December 31, 1973.

In the case of a preceding taxable year with respect to which a trust qualifies (without regard to this article) under the provisions of Article 2, for purposes of the application of this article to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the Franchise Tax Board, be treated as a trust to which Article 3 applies.

SEC. 75. Section 17774.6 is added to the Revenue and Taxation Code, to read:

17774.6. No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under Sections 17772 to 17774.5, inclusive.

SEC. 76. Section 17775 of the Revenue and Taxation Code is repealed:

SEC. 77. Section 17775 is added to the Revenue and Taxation Code, to read·

17775. (a) The total of the amounts which are treated under Sections 17772 to 17774.5, inclusive, as having been distributed by the trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under Section 17762(b) (and, with respect to any tax-exempt interest under Section 17763) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this part on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

(1) A partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and

(2) A partial tax determined as provided in subdivision (b) of this section.

(b) (1) The partial tax imposed by subdivision (a)(2) shall be

determined—

(A) By determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under Section 17772 to have been distributed,

(B) By taking from the five taxable years immediately preceding the year of the accumulation distribution the one taxable year for which the beneficiary's taxable income was the highest and the one taxable year for which his taxable income was the lowest,

(C) By adding to the beneficiary's taxable income for each of the three taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under Sections 17772 to 17774.5, inclusive, and required to be included in income under subdivision (a) by the number of preceding taxable years determined under subparagraph (A), and

(D) By determining the average increase in tax for the three taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subdivision (a) (2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under Sections 17773 and 17774.

(2) For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.

(3) For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under Section 17772, the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under Section 17772 shall be determined without regard to such year.

(4) In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under Sections 17772 to 17774.5, inclusive, as a result of prior accumulation distributions (whether from the same or another trust).

(5) In the case of accumulation distributions made from more than one trust which are includable in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

(c) (1) If, in the same prior taxable year of the beneficiary in

which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as "third trust") is deemed under Section 17772 to have been distributed to such beneficiary, some part of prior distributions by each of two or more other trusts is deemed under Section 17772 to have been distributed to such beneficiary, then Sections 17773 and 17774 shall not apply with respect to such part of the accumulation distribution from such third trust.

(2) For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under Section 17772 to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds one thousand dollars ($1,000)

SEC 78. Section 17776 of the Revenue and Taxation Code is repealed.

SEC. 79 Section 17777 of the Revenue and Taxation Code is repealed

SEC 80 Section 17821 of the Revenue and Taxation Code is repealed.

SEC. 81. Section 17821 is added to the Revenue and Taxation Code, to read:

17821 (a) Except as provided in subdivision (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of Section 17431) if it were a corporation, then gain shall be recognized to the transferor.

(b) Subdivision (a) shall not apply to any transfer to a pooled income fund (within the meaning of Section 17734(e)).

SEC. 82. Section 17855 of the Revenue and Taxation Code is amended to read:

17855. A partner's distributive share of income, gain, loss, deduction, or credit shall, except as otherwise provided in this part, be determined by the partnership agreement

SEC. 83. Section 17856 of the Revenue and Taxation Code is repealed.

SEC 84. Section 17856 is added to the Revenue and Taxation Code, to read·

17856 A partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if—

(a) The partnership agreement does not provide as to the partner's distributive share of income, gain, loss, deduction, or credit (or item thereof), or

(b) The allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect.

SEC. 85. Section 17858 of the Revenue and Taxation Code is

amended to read:

17858. (a) A partner's distributive share of partnership loss (including capital loss) shall be allowed only to the extent of the adjusted basis of such partner's interest in the partnership at the end of the partnership year in which such loss occurred. Any excess of such loss over such basis shall be allowed as a deduction at the end of the partnership year in which such excess is repaid to the partnership. For purposes of this section, the adjusted basis of any partner's interest in the partnership shall not include any portion of any partnership liability with respect to which the partner has no personal liability.

The preceding sentence shall not apply with respect to any activity to the extent that Section 17599 (relating to limiting deductions to amounts at risk in case of certain activities) applies, nor shall it apply to any partnership the principal activity of which is investing in real property (other than mineral property).

(b) The amendment made to this section by the 1977–78 Regular Session of the Legislature shall apply to liabilities incurred after December 31, 1976.

SEC. 86. Section 17859.1 is added to the Revenue and Taxation Code, to read:

17859.1. For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see paragraph (2) of subdivision (b) of Section 17863.

SEC. 87. Section 17863 of the Revenue and Taxation Code is amended to read:

17863. (a) Except in the case of a termination of a partnership and except as provided in subsection (b) of this section, the taxable year of a partnership shall not close as the result of the death of a partner, the entry of a new partner, the liquidation of a partner's interest in the partnership, or the sale or exchange of a partner's interest in the partnership.

(b) (1) The taxable year of a partnership shall close—

(A) With respect to a partner who sells or exchanges his entire interest in a partnership, and

(B) With respect to a partner whose interest is liquidated, except that the taxable year of a partnership with respect to a partner who dies shall not close prior to the end of the partnership's taxable year.

Such partner's distributive share of items described in Section 17852 for such year shall be determined, under regulations prescribed by the Franchise Tax Board, for the period ending with such sale, exchange, or liquidation.

(2) The taxable year of a partnership shall not close (other than at the end of a partnership's taxable year as determined under Section 17862(a)) with respect to a partner who sells or exchanges less than his entire interest in the partnership or with respect to a partner whose interest is reduced (whether by entry of a new partner, partial liquidation of a partner's interest, gift, or otherwise), but such partner's distributive share of items described in Section

17852 shall be determined by taking into account his varying interests in the partnership during the taxable year.

SEC. 88. Section 17866 of the Revenue and Taxation Code is amended to read:

17866. (a) To the extent determined without regard to the income of the partnership, payments to a partner for services or the use of capital shall be considered as made to one who is not a member of the partnership, but only for the purposes of subdivision (a) of Section 17071 (relating to gross income) and, subject to Section 17283 for purposes of subdivision (a) of Section 17202 (relating to trade or business expenses).

(b) In the case of a nonresident partner, payments described in subsection (a) shall be gross income from sources within this state

SEC 89. Section 17868 is added to the Revenue and Taxation Code, to read:

17868. (a) Except as provided in subdivision (b), no deduction shall be allowed under this part to the partnership or to any partner for any amounts paid or incurred to organize a partnership or to promote the sale of (or to sell) an interest in such partnership.

(b) (1) Amounts paid or incurred to organize a partnership may, at the election of the partnership (made in accordance with regulations prescribed by the Franchise Tax Board), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the partnership (beginning with the month in which the partnership begins business), or if the partnership is liquidated before the end of such 60-month period, such deferred expenses (to the extent not deducted under this section) may be deducted to the extent provided in Sections 17206 and 17206.5

(2) The organizational expenses to which paragraph (1) applies, are expenditures which—

(A) Are incident to the creation of the partnership;

(B) Are chargeable to capital account; and

(C) Are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would be amortized over such life.

(c) This section shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1976.

SEC. 90. Section 17881 of the Revenue and Taxation Code is amended to read:

17881. (a) No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

(b) Subdivision (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of Section 17431) if the partnership were incorporated.

SEC. 91. Section 17882 of the Revenue and Taxation Code is amended to read:

17882. The basis of an interest in a partnership acquired by a contribution of property, including money, to the partnership shall be the amount of such money and the adjusted basis of such property to the contributing partner at the time of the contribution increased by the amount (if any) of gain recognized to the contributing partner at such time.

SEC. 92. Section 17883 of the Revenue and Taxation Code is amended to read:

17883. The basis of property contributed to a partnership by a partner shall be the adjusted basis of such property to the contributing partner at the time of the contribution increased by the amount (if any) of gain recognized to the contributing partner at such time.

SEC. 93. Section 17913 of the Revenue and Taxation Code is amended to read:

17913. For purposes of this chapter, the term "unrealized receivables" includes, to the extent not previously includable in income under the method of accounting used by the partnership, any rights (contractual or otherwise) to payment for—

(a) Goods delivered, or to be delivered, to the extent that proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset; or

(b) Services rendered, or to be rendered.

For purposes of this section and Sections 17891, 17896, 17897, and 17901, such term also includes mining property (as defined in paragraph (2) of subdivision (f) of Section 17689.5), Section 18211 property (as defined in paragraph (3) of subdivision (a) of Section 18211), Section 18212 property (as defined in Section 18214), farm recapture property (as defined in paragraph (1) of subdivision (e) of Section 18220), farmland (as defined in subdivision (a) of Section 18219) and franchises, trademarks or trade names (referred to in subdivision (a) of Section 18213.5), but only to the extent of the amount which would be treated as gain to which paragraph (1) of subdivision (d) of Section 17689.5, subdivision (a) of Section 18211, Section 18212, subdivision (c) of Section 18220, subdivision (a) of Section 18218.5 or subdivision (a) of Section 18219 would apply if (at the time of the transaction described in this section or Sections 17891, 17896, 17897, or 17901, as the case may be) such property had been sold by the partnership at its fair market value.

SEC. 94. Section 17921 of the Revenue and Taxation Code is amended to read:

17921. (a) For purposes of this part, the term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this part, a corporation or a trust or estate. Under regulations the Franchise Tax Board may, at the election of all the members of an unincorporated organization, exclude such organization from the application of all or part of this chapter, if it

is availed of—

(1) For investment purposes only and not for the active conduct of a business; or

(2) For the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted,

if the income of the members of the organization may be adequately determined without the computation of partnership taxable income.

(b) For purposes of this part, the term "partner" means a member of a partnership.

(c) For purposes of this chapter, a partnership agreement includes any modifications of the partnership agreement made prior to, or at, the time prescribed by law for the filing of the partnership return for the taxable year (not including extensions) which are agreed to by all the partners, or which are adopted in such other manner as may be provided by the partnership agreement.

(d) For purposes of this chapter, the term "liquidation of a partner's interest" means the termination of a partner's entire interest in a partnership by means of a distribution, or a series of distributions, to the partner by the partnership.

(e) For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see Section 17856 and paragraph (2) of subdivision (b) of Section 17863.

SEC. 95. Section 18046 of the Revenue and Taxation Code is amended to read:

18046 (a) Sections 18044 and 18045 shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under Sections 17831 to 17837, inclusive.

(b) In the case of a decedent dying after December 31, 1976, Sections 18044, 18045, and subdivision (a) of this section shall not apply to any property for which a carryover basis is provided by Section 18047.

SEC. 96. Section 18047 is added to the Revenue and Taxation Code, to read:

18047 (a) (1) Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

(2) In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value.

(b) (1) For purposes of this section, the term "carryover basis property" means any property which is acquired from or passed from a decedent (within the meaning of Section 1014(b) of the Internal Revenue Code of 1954) and which is not excluded pursuant to paragraph (2) or (3)

(2) The term "carryover basis property" does not include—

(A) Any item of gross income in respect of a decedent described in Sections 17831 to 17837, inclusive;

(B) Property described in Section 2042 of the Internal Revenue Code of 1954 (relating to proceeds of life insurance);

(C) A joint and survivor annuity under which the surviving annuitant is taxable under Sections 17101 to 17112, inclusive, and payments and distributions under a deferred compensation plan described in Sections 17501 to 17530.4, inclusive, to the extent such payments and distributions are taxable to the decedent's beneficiary under this part;

(D) Property included in the decedent's gross estate by reason of Section 2035, 2038, or 2041 of the Internal Revenue Code of 1954 which has been disposed of before the decedent's death in a transaction in which gain or loss is recognizable for purposes of this part.

(E) Stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includible in gross income under Section 17532(c)(1), 17533(c), or 17534(c)(1); and

(F) Property described in Section 1014(b)(5) of the Internal Revenue Code of 1954.

(3)(A) The term "carryover basis property" does not include any asset—

(i) Which, in the hands of the decedent, was a personal or household effect, and

(ii) With respect to which the executor has made an election under this paragraph.

(B) The fair market value of all assets designated under this subdivision with respect to any decedent shall not exceed ten thousand dollars ($10,000).

(C) An election under this paragraph with respect to any asset shall be made by the executor in such manner as the Franchise Tax Board shall by regulation prescribe.

(c) The basis of appreciated carryover basis property (determined after any adjustment under subdivision (h)) which is subject to the tax imposed by Part 8 (commencing with Section 13301) of this division in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the taxes imposed by Part 8 (commencing with Section 13301) of this division as—

(1) The net appreciation in value of such property, bears to

(2) The fair market value of all property which is subject to the taxes imposed by Part 8 (commencing with Section 13301) of this division.

(d)(1) If sixty thousand dollars ($60,000) exceeds the aggregate bases (as determined after any adjustment under subdivision (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subdivision

(h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

(A) The net appreciation in value of such property, bears to

(B) The net appreciation in value of all such property.

(2) For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property

(3) This subdivision shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

(e) If—

(1) Any such person acquires appreciated carryover basis property from a decedent, and

(2) Such person actually pays an amount of the taxes imposed by Part 8 (commencing with Section 13301) of this division with respect to such property for which the estate is not liable,

then the basis of such property (after any adjustment under subdivision (h), (c) or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

(A) The net appreciation in value of such property, bears to

(B) The fair market value of all property acquired by such person which is subject to such taxes

(f) (1) The adjustments under subdivisions (c), (d), and (e) shall not increase the basis of property above its fair market value.

(2) For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subdivision (h)). For purposes of subdivision (d) such adjusted basis shall be increased by the amount of any adjustment under subdivision (c), and, for purposes of subdivision (e), such adjusted basis shall be increased by the amount of any adjustment under subdivision (c) or (d).

(3) For purposes of subdivisions (c) and (e), property shall be treated as not subject to a tax with respect to the taxes imposed by Part 8 of this code, to the extent that a deduction is allowable with respect to such property under Section 13841, 13842 or 13805 of Part 8 (commencing with Section 13301) of this division.

(4) For purposes of this section, the term "appreciated carryover basis property" means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

(g) (1) For purposes of this section, when not otherwise distinctly expressed, the term "fair market value" means value as determined under Section 13311.

(2) For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

(3) If the facts necessary to determine the basis (unadjusted) of

carryover basis property immediately before the death of the decedent are unknown to the person acquiring such property from the decedent, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

(4) For purposes of subdivisions (c), (d), and (e), if—

(A) There is an unpaid mortgage on, or indebtedness in respect of, property,

(B) Such mortgage or indebtedness does not constitute a liability of the estate, and

(C) Such property is included in the gross estate undiminished by such mortgage or indebtedness,

then the fair market value of such property to be treated as included in the gross estate shall be the fair market value of such property, diminished by such mortgage or indebtedness

(h) (1) If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then for purposes of determining gain, the adjusted basis of such property shall be increased by the amount of such excess.

(2) (A) If—

(i) The adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

(ii) The value of such carryover basis property exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subdivision),

then, for purposes of determining gain, the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subdivision) shall be increased by the amount determined under subparagraph (B).

(B) The amount of the increase under this subparagraph for any property is the sum of—

(i) The excess referred to in clause (ii) of subparagraph (A), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

(ii) The adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977.

(C) For purposes of clause (i) of subparagraph (B), the term "applicable fraction" means, with respect to any property, a fraction—

(i) The numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and

(ii) The denominator of which is the total number of days in such holding period

(D) Under regulations prescribed by the Franchise Tax Board, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

(E) For purposes of this paragraph—

(i) The term "marketable bond or security" means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.

(ii) The term "holding period" means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under Sections 18163 to 18172, inclusive; except that such period shall end on the date of the decedent's death.

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

(j) References to the Internal Revenue Code of 1954 in this section mean said code as it read on January 1, 1977.

SEC. 97. Section 18051.1 of the Revenue and Taxation Code is amended to read:

18051.1. (a) If—

(1) The property is acquired by gift on or after the date of the enactment of this section, the basis shall be the basis determined under Section 18049, increased (but not above the fair market value of the property at the time of the gift) by the amount of federal gift tax paid with respect to such gift, or

(2) The property was acquired by gift before the date of the enactment of this section and has not been sold, exchanged, or otherwise disposed of before such date, the basis of the property shall be increased on such date by the amount of federal gift tax paid with respect to such gift, but such increase shall not exceed an amount equal to the amount by which the fair market value of the property at the time of the gift exceeded the basis of the property in the hands of the donor at the time of the gift.

(b) For purposes of subdivision (a), the amount of the federal gift tax paid with respect to any gift is an amount which bears the same ratio to the amount of gift tax paid under Chapter 12 of the Internal Revenue Code of 1954 with respect to all gifts made by the donor for the calendar year in which such gift is made as the amount of such gift bears to the taxable gifts (as defined in Section 2503 (a) of the Internal Revenue Code of 1954 but computed without the deduction allowed by Section 2521 of the Internal Revenue Code of 1954) made by the donor during such calendar year. For purposes of the preceding sentence, the amount of any gift shall be the amount

included with respect to such gift in determining (for the purposes of Section 2503 (a) of the Internal Revenue Code of 1954) the total amount of gifts made during the calendar year, reduced by the amount of any deduction allowed with respect to such gift under Section 2522 of the Internal Revenue Code of 1954 (relating to charitable deduction) or under Section 2523 of the Internal Revenue Code of 1954 (relating to marital deduction).

(c) For purposes of subdivision (a), where the donor and his spouse elected, under Section 2513 of the Internal Revenue Code of 1954 to have the gift considered as made one-half by each, the amount of gift tax paid with respect to such gift under Chapter 12 of the Internal Revenue Code of 1954 shall be the sum of the amounts of tax paid with respect to each half of such gift (computed in the manner provided in subdivision (b)).

(d) For purposes of Section 18053(d), an increase in basis under subdivision (a) shall be treated as an adjustment under Section 18052.

(e) With respect to any property acquired by gift before 1955, references in this section to any provision of the Internal Revenue Code shall be deemed to refer to the corresponding provisions of the Internal Revenue Code of 1939 or prior federal revenue laws which was effective for the year in which such gift was made.

(f) (1) In the case of any gift made after December 31, 1976, the increase in basis provided by this subdivision with respect to any gift for the gift tax paid under Chapter 12 of the Internal Revenue Code of 1954, shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

(A) The net appreciation in value of the gift, bears to

(B) The amount of the gift

(2) For purposes of paragraph (1) of subdivision (a), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift.

(3) This subdivision shall apply to gifts made after December 31, 1976.

SEC. 98 Section 18052 of the Revenue and Taxation Code is amended to read:

18052. Proper adjustment in respect of the property shall in all cases be made—

(a) For expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made—

(1) For taxes or other carrying charges described in Section 17286, or

(2) For expenditures described in Section 17222 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years;

(b) To the extent sustained prior to January 1, 1935, and for

periods thereafter, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount—

(1) Allowed as deductions in computing taxable income under this part or prior income tax laws, and

(2) Resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this part, but not less than the amount allowable under this part or prior income tax laws. Where no method has been adopted under Sections 17208 to 17211 7, inclusive (relating to depreciation deduction), the amount allowable shall be determined under paragraph (1) of subdivision (b) of Section 17208.

(c) In respect of any period—

(1) Before January 1, 1935, and

(2) Since December 31, 1934, during which such property was held by a person or an organization not subject to income taxation under this part or prior income tax laws, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(d) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat. 1057), or the Revenue Act of 1921 (42 Stat. 227), out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Revenue Act of 1918 or 1921);

(e) In the case of any bond (as defined in Section 17220) the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 17217, and in the case of any other bond (as defined in Section 17220) to the extent of the deductions allowable pursuant to subdivision (a) of Section 17217 with respect thereto;

(f) In the case of any municipal bond (as defined in Section 17116), to the extent provided in subdivision (b) of Section 17115;

(g) In the case of a residence the acquisition of which resulted, under Sections 18091 to 18100, inclusive, in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in Section 18095;

(h) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 17117, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

(i) For amounts allowed as deductions as deferred expenses under

subdivision (b) of Section 17690 (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(j) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 17689 or Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(k) For deductions to the extent disallowed under Section 17291 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other subdivision of this section;

(*l*) For amounts allowed as deductions as deferred expenses under paragraph (1) of subdivision (b) of Section 17223 (relating to research and experimental expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(m) For amounts allowed as deductions for expenditures treated as deferred expenses under Section 17227 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(n) For amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under paragraph (2) of subdivision (d) of Section 18218.5;

(o) To the extent provided in Section 18047, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976.

SEC. 99. Section 18090.2 of the Revenue and Taxation Code is amended to read:

18090.2. (a) For purposes of Sections 18082 through 18086, if real property (not including stock in trade or other property held primarily for sale) held for productive use in trade or business or for investment is (as the result of its seizure, requisition, or condemnation, or threat or imminence thereof) compulsorily or involuntarily converted, property of a like kind to be held either for productive use in trade or business or for investment shall be treated as property similar or related in service or use to the property so converted.

(b) (1) Subsection (a) shall not apply to the purchase of stock in the acquisition of control of a corporation described in Section 18083

(2) Subsection (a) shall apply with respect to the compulsory or involuntary conversion of any real property only if the disposition of the converted property (within the meaning of Section 18082(b)) occurs after December 31, 1960.

(c) (1) A taxpayer may elect, at such time and in such manner as the Franchise Tax Board may prescribe, to treat property which constitutes an outdoor advertising display as real property for

purposes of this part with respect to which an election under Section 17213(a) (relating to additional first-year depreciation allowance for small business) is in effect.

(2) An election made under paragraph (1) may not be revoked without the consent of the Franchise Tax Board.

(3) For purposes of this subdivision, the term "outdoor advertising display" means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

(4) For purposes of this subdivision, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in paragraph (3) (and treated by the taxpayer as real property) shall be considered property of a like kind as the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property.

(d) In the case of a compulsory or involuntary conversion described in subdivision (a), subdivision (a) of Section 18084 shall be applied by substituting "three years" for "two years."

(e) Subdivision (d) shall apply with respect to any disposition of converted property (within the meaning of subdivision (c) of Section 18082) after December 31, 1976

SEC 100. Section 18104 is added to the Revenue and Taxation Code, to read:

18104 (a) If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in Section 18047(f)(5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of Chapter 11 of the Internal Revenue Code of 1954, as it read on January 1, 1977.

(b) To the extent provided in regulations prescribed by the Franchise Tax Board, a rule similar to the rule provided in subdivision (a) shall apply where—

(1) By reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

(2) The trustee of the trust satisfies such right with carryover basis property to which Section 18047 applies.

(c) The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subdivision (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange

SEC. 101. Section 18113 is added to the Revenue and Taxation

Code, to read:

18113. (a) If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

(1) The adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

(2) The gain (if any) recognized by the transferor on the transfer of such contract For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of Section 24512, shall be treated as recognized to the extent recognized by the transferor's shareholders.

(b) Subdivision (a) shall not apply—

(1) To an exchange described in Section 18081 (relating to exchange of property held for productive use or investment), and

(2) To property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of Section 18044).

(c) Under regulations prescribed by the Franchise Tax Board, the transfer shall, at the times and in the manner provided in such regulations, furnish to the Franchise Tax Board and to the transferee the following information:

(1) The amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subdivision (a).

(2) The amount which the transferor believes to be the gain referred to in paragraph (2) of subdivision (a), and

(3) Any subsequent modification of either such amount To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

(d) In the case of any sale or exchange described in subdivision (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Franchise Tax Board that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration to contracts for the services of athletes is a proper allocation.

SEC. 102. Section 18161 of the Revenue and Taxation Code is amended to read:

18161. For purposes of this part, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

(a) Stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his

trade or business;

(b) Property, used in his trade or business, of a character which is subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive, or real property used in his trade or business;

(c) A copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by—

(1) A taxpayer whose personal efforts created such property,

(2) In the case of a letter, memorandum, or similar property, a taxpayer for whom such property was prepared or produced, or

(3) A taxpayer in whose hands the basis of such property is determined, for the purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such property in the hands of a taxpayer described in paragraph (1) or (2);

(d) Accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in subdivision (a).

(e) A publication of the United States government (including the Congressional Record) which is received from the United States government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

(1) A taxpayer who so received such publication, or

(2) A taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in paragraph (1).

SEC 103. Section 18191 of the Revenue and Taxation Code is repealed.

SEC. 104. Section 18191 is added to the Revenue and Taxation Code, to read:

18191. (a) (1) Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, on option to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by him)

(2) For purposes of paragraph (1), if loss is attributable to failure to exercise an option, the option shall be deemed to have been sold or exchanged on the day it expired

(3) This subdivision shall not apply to—

(A) An option which constitutes property described in paragraph (1) of Section 18161;

(B) In the case of gain attributable to the sale or exchange of an option, any income derived in connection with such option which, without regard to this subdivision, is treated as other than gain from the sale or exchange of a capital asset, and

(C) A loss attributable to failure to exercise an option described

in Section 18188.

(b) (1) In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held for the same period as the property to which the option relates.

(2) For purposes of this subdivision—

(A) The term "closing transaction" means any termination of the taxpayer's obligation under an option in property other than through the exercise or lapse of the option.

(B) The term "property" means stocks and securities (including stocks and securities dealt with on a "when issued" basis), commodities, and commodity futures

(3) This subdivision shall not apply to any option granted in the ordinary course of the taxpayer's trade or business of granting options.

(c) The amendments made in this section shall apply to options granted after December 31, 1976

SEC. 105. Section 18201 of the Revenue and Taxation Code is amended to read:

18201. (a) In the case of a sale or exchange of property, directly or indirectly, between related persons, any gain recognized to the transferor shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive.

(b) For purposes of subdivision (a), the term "related persons" means—

(1) A husband and wife,

(2) An individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual.

(c) Section 17384 shall apply in determining the ownership of stock for purposes of this section, except that paragraph (3) of subdivision (b) of Section 17384 shall be applied without regard to the 50-percent limitation contained therein.

(d) The amendments made in this section during the 1977–78 Regular Session of the Legislature shall apply to sales or exchanges after the date of the enactment of this section. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into on or before that date.

SEC 106. Section 18211 of the Revenue and Taxation Code is amended to read:

18211. (a) (1) Except as otherwise provided in this section, if Section 18211 property is disposed of during a taxable year beginning after December 31, 1962, the amount by which the lower of—

(A) The recomputed basis of the property, or

(B) (i) In the case of a sale, exchange or involuntary

conversion, the amount realized, or

(ii) In the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange or property which is neither a capital asset nor property described in Sections 18181 and 18182. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of this section, the term "recomputed basis" means—

(A) With respect to any property referred to in subparagraphs (A) or (B) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1961,

(B) With respect to any property referred to in subparagraph (C) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments attributable to periods after June 30, 1963,

(C) With respect to livestock its adjusted basis recomputed by adding thereto all adjustments attributable to periods after December 31, 1969, or

(D) With respect to any property referred to in subparagraph (D) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments attributable to periods beginning with the first month for which a deduction for amortization is allowed under Section 17226, 17227, or 17228, reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation, or for amortization under Section 17226, 17227, or 17228 For purposes of the preceding sentence if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation, or for amortization under Section 17226, 17227, or 17228, for any period was less than the amount allowable, the amount added for such period shall be the amount allowed. For purposes of this section, any deduction allowable under Section 17227 shall be treated as if it were a deduction for amortization.

(3) For purposes of this section, the term "Section 18211 property" means any property which is or has been property of a character subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive, and is either—

(A) Personal property,

(B) Other property (not including a building or its structural components) but only if such other property is tangible and has an adjusted basis in which there are reflected adjustments described in paragraph (2) for a period in which such property (or other property)—

(i) Was used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

(ii) Constituted research or storage facilities used in connection

with any of the activities referred to in clause (i),

(C) An elevator or an escalator, or

(D) So much of any real property (other than any property described in subparagraph (B)) which has an adjusted basis in which there are reflected adjustments for amortization under Section 17226, 17227 or 17228.

(4) (A) For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the adjusted basis of such contracts increased by the greater of—

(i) The previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

(ii) The previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

(B) For purposes of clause (i) of subparagraph (A), the term "previously unrecaptured depreciation" means the excess (if any) of—

(i) The sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation of any player contracts acquired by him at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses with respect to such player contracts acquired at the time of such acquisition, over

(ii) The aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise

(C) For purposes of clause (i) of subparagraph (A) the term "previously unrecaptured depreciation" means—

(i) The amount of any deduction allowed or allowable to the taxpayer transferor, for the depreciation of any contracts involved in such transfer, over

(ii) The aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise.

(D) For purposes of this paragraph, the term "player contract" means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in Section 17208

(E) This section shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1976, in taxable years ending after the enactment of this section.

(b) (1) Subdivision (a) shall not apply to a disposition by gift.

(2) Except as provided in Section 17831 to 17837, inclusive (relating to income in respect of a decedent), subdivision (a) shall not apply to a transfer at death.

(3) If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by

reason of the application of Section 17431, 17481, 17881, 17891, or Section 24502, 24521, or 24551 of the Bank and Corporation Tax Law, then the amount of gain taken into account by the transferor under paragraph (1) of subdivision (a) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to this section) This paragraph shall not apply to a disposition to an organization which is exempt from the tax imposed by this part.

(4) If property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under Section 18081 or Sections 18082 to 18090.2, inclusive, then the amount of gain taken into account by the transferor under paragraph (1) of subdivision (a) shall not exceed the sum of—

(A) The amount of gain recognized on such disposition (determined without regard to this section), plus

(B) The fair market value of property acquired which is not Section 18211 property and which is not taken into account under subparagraph (A).

(5) Under regulations prescribed by the Franchise Tax Board, rules consistent with paragraphs (3) and (4) of this subdivision shall apply in the case of transactions described in Section 18121 (relating to gain from sale or exchange to effectuate policies of FCC) or Sections 18131 to 18134, inclusive (relating to exchanges in obedience to SEC orders)

(6) (A) For purposes of this section, the basis of Section 18211 property distributed by a partnership to a partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership.

(B) In the case of any property described in subparagraph (A), for purposes of computing the recomputed basis of such property the amount of the adjustments added back for periods before the distribution by the partnership shall be—

(i) The amount of the gain to which subdivision (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

(ii) The amount of such gain to which Section 17912 applied.

(c) The Franchise Tax Board shall prescribe such regulations as it may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under subdivision (a).

(d) This section shall apply notwithstanding any other provisions of this part.

SEC. 107. Section 18212 of the Revenue and Taxation Code is repealed.

SEC. 108. Section 18212 is added to the Revenue and Taxation Code, to read:

18212. (a) Except as otherwise provided in this section—

(1) (A) If Section 18212 property is disposed of after December 31, 1976, then the applicable percentage of the lower of—

(i) That portion of the additional depreciation (as defined in subdivision (a) or (d)) of Section 18213 attributable to periods after December 31, 1976, in respect of the property, or

(ii) The excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provisions of this part.

(B) For purposes of subparagraph (A), the term "applicable percentage" means—

(i) In the case of Section 18212 property with respect to which a mortgage is insured under Section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of state or local laws and with respect to which the owner is subject to the restrictions described in Section 1039(b)(1)(B) of the Internal Revenue Code of 1954, 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months

(ii) In the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under Section 8 of the United States Housing Act of 1937, as amended, or under the provisions of state or local law authorizing similar levels of subsidy for lower-income families, 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months;

(iii) In the case of Section 18212 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under Section 17211.7, 100 percent minus one percentage point for each full month in excess of 100 full months after the date on which such property was placed in service;

(iv) In the case of Section 18212 property with respect to which a loan is made or insured under Title V of the Housing Act of 1949, 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months; and

(v) In the case of all other Section 18212 property, 100 percent.

In the case of a building (or a portion of a building devoted to dwelling units), if, on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i), (ii), and (iv) shall not apply with respect to the additional depreciation described in subdivision (a) of Section 18213

(2) (A) If Section 18212 property is disposed of after December 31, 1969, and the amount determined under clause (ii) of subparagraph (A) of paragraph (1) exceeds the amount determined

under clause (i) of subparagraph (A) of paragraph (1), then the applicable percentage of the lower of—

(i) That portion of the additional depreciation attributable to periods after December 31, 1971, and before January 1, 1976, in respect of the property, or

(ii) The excess of the amount determined under clause (ii) of subparagraph (A) of paragraph (1) over the amount determined under clause (i) of subparagraph (A) of paragraph (1),

shall also be treated as gain which is ordinary income Such gain shall be recognized notwithstanding any other provision of this part.

(B) For purposes of subparagraph (A), the term "applicable percentage" means—

(i) In the case of Section 18212 property disposed of pursuant to a written contract which was, on December 31, 1970, and at all times thereafter, binding on the owner of the property, 100 percent minus one percentage point for each full month the property was held after the date the property was held 20 full months;

(ii) In the case of Section 18212 property with respect to which a mortgage is insured under Section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of state or local laws, and with respect to which the owner is subject to the restrictions described in Section 1039(b)(1)(B) of the Internal Revenue Code of 1954, 100 percent minus one percentage point for each full month the property was held after the date the property was held 20 full months;

(iii) In the case of residential rental property (as defined in Section 17211.7 other than that covered by clauses (i) and (ii)), 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months,

(iv) In the case of Section 18212 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under Section 17211.7, 100 percent minus one percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

(v) In the case of all other Section 18212 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subdivision (a) of Section 18213.

(3) (A) If Section 18212 property is disposed of after December 31, 1963, and the amount determined under clause (ii) of subparagraph (A) of paragraph (1) exceeds the sum of the amounts determined under clause (i) of subparagraph (A) of paragraph (1), and clause (i) of subparagraph (A) of paragraph (2), then the applicable percentage of the lower of—

(i) That portion of the additional depreciation attributable to periods before January 1, 1971, in respect of the property, or

(ii) The excess of the amount determined under clause (ii) of

subparagraph (A) of paragraph (1) over the sum of the amounts determined under clause (i) of subparagraph (A) of paragraph (1) and clause (i) of subparagraph (A) of paragraph (2),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this part.

(B) For purposes of subparagraph (A), the term "applicable percentage" means 100 percent minus one percentage point for each full month the property was held after the date on which the property was held for 20 full months.

(b) The amendment made to this section by the 1977–78 Regular Session of the Legislature shall apply to taxable years ending after December 31, 1976.

SEC 109. Section 18213 of the Revenue and Taxation Code is amended to read:

18213 For the purposes of Sections 18212 to 18218, inclusive—

(a) The term "additional depreciation" means, in the case of any property, the depreciation adjustments in respect of such property; except that, in the case of property held more than one year, it means such adjustments only to the extent that they exceed the amount of the depreciation adjustments which would have resulted if such adjustments had been determined for each taxable year under the straight line method of adjustment. For purposes of the preceding sentence, if a useful life (or salvage value) was used in determining the amount allowed as a deduction for any taxable year, such life (or value) shall be used in determining the depreciation adjustments which would have resulted for such year under the straight line method.

(b) In the case of a lessee, in determining the depreciation adjustments which would have resulted in respect of any building erected (or other improvement made) on the leased property, or in respect of any cost of acquiring the lease, the lease period shall be treated as including all renewal periods. For purposes of the preceding sentence—

(1) The term "renewal period" means any period for which the lease may be renewed, extended, or continued pursuant to an option exercisable by the lessee, but

(2) The inclusion of renewal periods shall not extend the period taken into account by more than two-thirds of the period on the basis of which the depreciation adjustments were allowed.

(c) The term "depreciation adjustments" means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under Section 17226, 17227 or 17228). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the

amount taken into account for such period shall be the amount allowed

(d) The term "additional depreciation" also means, in the case of Section 18212 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under Section 17211 7, the depreciation adjustments allowed under such section to the extent attributable to such property, except that, in the case of such property held for more than one year after the rehabilitation expenditures so allowed were incurred, it means such adjustments only to the extent that they exceed the amount of the depreciation adjustments which would have resulted if such adjustments had been determined under the straight line method of adjustment without regard to the useful life permitted under Section 17211.7.

SEC. 110. Section 18215 of the Revenue and Taxation Code is amended to read·

18215. (a) Section 18212 shall not apply to a disposition by gift.

(b) Except as provided in Sections 17831 to 17837, inclusive, (relating to income in respect to a decedent), Section 18212 shall not apply to a transfer at death

(c) If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of Sections 17431, 17481, 17881, 17891 or Sections 24502, 24521, 24551, or 24571 of the Bank and Corporation Tax Law, then the amount of gain taken into account by the transferor under Section 18212(a) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to Sections 18212 to 18218, inclusive). This paragraph shall not apply to a disposition to an organization which is exempt from the tax imposed by this part or the Bank and Corporation Tax Law.

(d) (1) If property is disposed of and gain (determined without regard to Sections 18212 to 18218, inclusive) is not recognized in whole or in part under Sections 18081 or 18082 to 18090.2, inclusive, then the amount of gain taken into account by the transferor under Section 18212(a) shall not exceed the greater of the following:

(i) The amount of gain recognized on the disposition (determined without regard to Sections 18212 to 18218, inclusive), increased as provided in subparagraph (2), or

(ii) The amount determined under subparagraph (3).

(2) With respect to any transaction, the increase provided by this subparagraph is the amount equal to the fair market value of any stock purchased in a corporation which (but for this paragraph) would result in nonrecognition of gain under Section 18083.

(3) With respect to any transaction, the amount determined under this subparagraph shall be the excess of—

(i) The amount of gain which would (but for this paragraph) be taken into account under Section 18212(a), over

(ii) The fair market value (or cost in the case of a transaction described in Sections 18082(c) to 18086, inclusive), of the Section

18212 property acquired in the transaction

(4) In the case of property purchased by the taxpayer in a transaction described in Sections 18082(c) to 18086, inclusive, in applying the last sentence of Section 18088, such sentence shall be applied—

(i) First solely to Section 18212 properties and to the amount of gain not taken into account under Section 18212(a) by reason of this paragraph, and

(ii) Then to all purchased properties to which such sentence applies and to the remaining gain not recognized on the transaction as if the cost of the Section 18212 properties were the basis of such properties computed under clause (i).

In the case of property acquired in any other transaction to which this paragraph applies, rules consistent with the preceding sentence shall be applied under regulations prescribed by the Franchise Tax Board.

(5) In the case of any transaction described in Section 18081 or 18082 to 18090.2, inclusive, the additional depreciation in respect of the Section 18212 property acquired which is attributable to Section 18212 property disposed of shall be an amount equal to the amount of the gain which was not taken into account under Section 18212(a) by reason of the application of this paragraph.

(e) Under regulations prescribed by the Franchise Tax Board, rules consistent with paragraphs (c) and (d) of this section and with Sections 18216 and 18217 shall apply in the case of transactions described in Section 18121 (relating to gain from sale or exchange to effectuate policies of FCC) or Sections 18131 to 18134, inclusive (relating to exchanges in obedience to SEC orders).

(f) (1) For purposes of Sections 18212 to 18218, inclusive, the basis of Section 18212 property distributed by a partnership to a partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership.

(2) In respect of any property described in subparagraph (1), the additional depreciation attributable to periods before the distribution by the partnership shall be—

(i) The amount of the gain to which Section 18212 would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time and the applicable percentage for the property had been 100 percent, reduced by

(ii) If Section 17912 applied to any part of such gain, the amount of such gain to which Section 17912 would have applied if the applicable percentage for the property had been 100 percent.

(g) Section 18212 shall not apply to a disposition of—

(1) Property to the extent used by the taxpayer as his principal residence (within the meaning of Sections 18091 to 18100, inclusive, relating to sale or exchange of residence), and

(2) Property in respect of which the taxpayer meets the age and ownership requirements of Section 17154 (relating to gains from sale

or exchange of residence of individual who has attained the age of 65) but only to the extent that he meets the use requirements of such section in respect of such property.

(h) If any Section 18212 property is disposed of by the taxpayer pursuant to a bid for such property at foreclosure or by operation of an agreement or of process of law after there was a default on indebtedness which such property secured, the applicable percentage referred to in subparagraph (B) of paragraph (1) or subparagraph (B) of paragraph (2) or subparagraph (B) of paragraph (3) of subdivision (a) of Section 18212, as the case may be, shall be determined as if the taxpayer ceased to hold such property on the date of the beginning of the proceedings pursuant to which the disposition occurred, or, in the event there are no proceedings, such percentage shall be determined as if the taxpayer ceased to hold such property on the date, determined under regulations prescribed by the Franchise Tax Board, on which such operation of an agreement or process of law, pursuant to which the disposition occurred, began

This subdivision shall apply with respect to proceedings (and to operations of law) which begin after December 31, 1976.

SEC. 111. Section 18217 of the Revenue and Taxation Code is amended to read

18217. (a) If, in the case of a disposition of Section 18212 property, the property is treated as consisting of more than one element by reason of subdivision (c), then the amount taken into account under Section 18212 in respect of such Section 18212 property as gain from the sale or exchange of property which is neither a capital asset nor property described in Sections 18181 and 18182 shall be the sum of the amounts determined under subdivision (b).

(b) For purposes of subdivision (a), the amount taken into account for any element shall be the sum of a series of amounts determined for the periods set forth in Section 18212, with the amount for any such period being determined by multiplying—

(1) The amount which bears the same ratio to the lower of the amounts specified in clause (i) or (ii) of subparagraph (A) of paragraph (1) of subdivision (a) of Section 18212, in clause (i) or (ii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 18212, or in clause (i) or (ii) of subparagraph (A) of paragraph (3) of subdivision (a) of Section 18212, as the case may be, for the Section 18212 property as the additional depreciation for such element attributable to such period bears to the sum of the additional depreciation for all elements attributable to such period, by

(2) The applicable percentage for such element for such period.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property.

(c) In applying this section in the case of any Section 18212 property, there shall be treated as a separate element—

(1) Each separate improvement,

(2) If, before completion of Section 18212 property, units thereof (as distinguished from improvements) were placed in service, each such unit of Section 18212 property, and

(3) The remaining property which is not taken into account under paragraphs (1) and (2).

(d) For purposes of this section—

(1) The term "separate improvement" means each improvement added during the 36-month period ending on the last day of any taxable year to the capital account for the property, but only if the sum of the amounts added to such account during such period exceeds the greatest of—

(A) Twenty-five percent of the adjusted basis of the property,

(B) Ten percent of the adjusted basis of the property, determined without regard to the adjustments provided in subdivisions (b) and (c) of Section 18052, or

(C) Five thousand dollars ($5,000).

For purposes of subparagraphs (A) and (B), the adjusted basis of the property shall be determined as of the beginning of the first day of such 36-month period, or of the holding period of the property (within the meaning of Section 18216), whichever is the later.

(2) Improvements in any taxable year shall be taken into account for purposes of paragraph (1) only if the sum of the amounts added to the capital account for the property for such taxable year exceeds the greater of—

(A) Two thousand dollars ($2,000), or

(B) One percent of the adjusted basis referred to in subparagraph (B) of paragraph (1), determined, however, as of the beginning of such taxable year.

For purposes of Sections 18212 to 18218, inclusive, if the amount added to the capital account for any separate improvement does not exceed the greater of subparagraph (A) or (B), such improvement shall be treated as placed in service on the first day, of a calendar month, which is closest to the middle of the taxable year.

(3) The term "improvement" means, in the case of any Section 18212 property, any addition to capital account for such property after the initial acquisition or after completion of the property.

SEC. 112. Section 18221 is added to the Revenue and Taxation Code, to read:

18221. (a) (1) If oil or gas property is disposed of after December 31, 1976, the lower of—

(A) The aggregate amount of expenditures after December 31, 1976, which are allocable to such property and which have been deducted as intangible drilling and development costs under subdivision (c) of Section 17283 by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), or

(B) The excess of—

(i) The amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

(ii) The adjusted basis of such interest, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of paragraph (1)—

(A) In the case of the disposition of a portion of an oil or gas property (other than an undivided interest), the entire amount of the aggregate expenditures described in subparagraph (A) of paragraph (1) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies

(B) In the case of the disposition of an undivided interest in an oil or gas property (or a portion thereof), a proportionate part of the expenditures described in subparagraph (A) of paragraph (1) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Franchise Tax Board that such expenditures do not relate to the portion (or interest therein) disposed of

(3) The term "oil and gas property" means any property (within the meaning of Section 614 of the Internal Revenue Code of 1954) with respect to which any expenditures described in paragraph (1) are property chargeable

(4) In applying subparagraph (A) of paragraph (1), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under Section 17681 with respect to such interest would have been increased if such costs incurred (after December 31, 1976) had been charged to capital account rather than deducted.

(b) Under regulations prescribed by the Franchise Tax Board rules similar to the rules of subdivision (g) of Section 17689.5 and to the rules of subdivisions (b) and (c) of Section 18211 shall be applied for purposes of this section

SEC. 113 Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1 In the case of each failure—

(a) To file a statement of the aggregate amount of payments to another person required by Section 18802 (relating to information at source), Section 18803 (relating to payments of corporate dividends), subdivision (c) of Section 18823 (relating to information returns with respect to income tax withheld), or Section 18802.1 (relating to payments of patronage dividends),

(b) To make a return required by Section 18802.7 (relating to reporting information in connection with certain options) with

respect to a transfer of stock or a transfer of legal title to stock,

(c) To make a return required by Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance) with respect to a group-term life insurance on the life of an employee, on the date prescribed therefor (determined with regard to any extension of time for filing), or

(d) To make a return and furnish a statement required by Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the person or employer failing to file a statement referred to in subdivision (a) or a return referred to in subdivision (b) or (c), one dollar ($1) for each such failure, but the total amount imposed on the delinquent person or employer for all such failures during any calendar year shall not exceed one thousand dollars ($1,000).

SEC. 114. Section 18802.8 is added to the Revenue and Taxation Code, to read:

18802.8. (a) The operator of a boat on which one or more individuals, during a calendar year, perform services described in Section 18807(o) shall submit to the Franchise Tax Board (at such time, and in such manner and form, as the Franchise Tax Board shall by regulations prescribe) information respecting—

(1) The identity of each individual performing such services;

(2) The percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

(3) If such individual receives his share in kind, the type and weight of such share, together with such other information as the Franchise Tax Board may prescribe by regulations reasonably necessary to determine the value of such shares; and

(4) If such individual receives a share of the proceeds of such catches, the amount so received.

(b) Every person making a return under subdivision (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

SEC. 115. Section 18802.9 is added to the Revenue and Taxation Code, to read:

18802.9. (a) Every executor (as defined in Section 2203 of the Internal Revenue Code of 1954) shall furnish the Franchise Tax Board such information with respect to carryover basis property to which Section 18047 applies as the Franchise Tax Board may by regulation prescribe.

(b) Every executor who is required to furnish information under

subdivision (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item.

SEC. 116. Section 18807 of the Revenue and Taxation Code is amended to read:

18807. For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including all remuneration paid to a nonresident employee for services performed in this state and, the cash value of all remuneration paid in any medium other than cash, except that such term shall not include remuneration paid—

(a) For agricultural labor (as defined in Section 3121(g) of the Internal Revenue Code of 1954); or

(b) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; or

(c) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employer to perform such service For purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

(1) On each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or

(2) Such individual was regularly employed (as determined under paragraph (1)) by such employer in the performance of such service during the preceding calendar quarter; or

(d) For services by a citizen or resident of the United States for a foreign government or an international organization; or

(e) For such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Franchise Tax Board; or

(f) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or

(g) (1) For services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(2) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services,

or is entitled to be credited with the unsold newspapers or magazines turned back; or

(h) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash; or

(i) To, or on behalf of, an employee or his beneficiary—

(1) From or to a trust described in Section 17501 which is exempt from tax under Section 17631 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

(2) Under or to an annuity plan which, at the time of such payment, is a plan described in Section 17511; or

(3) Under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in Section 17526; or

(4) For a payment described in Section 17240 or 17241 if, at the time of such payment, it is reasonable to believe that the employee will be entitled to a deduction under such section for payment; or

(j) To a master, officer or any other seaman who is a member of a crew on a vessel engaged in foreign, coastwise, intercoastal, interstate, or noncontiguous trade; or

(k) Pursuant to any provision of law other than Section 5(c) or 6(*l*) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such act; or

(*l*) In the form of group-term life insurance on the life of an employee; or

(m) To or on behalf of an employee, and to the extent that, at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under Section 17266; or

(n) (1) As tips in any medium other than cash;

(2) As cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is twenty dollars ($20) or more.

(o) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

(1) Such individual does not receive any cash remuneration (other than as provided in paragraph (2)),

(2) Such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

(3) The amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation

involving more than one boat) is normally made up of fewer than 10 individuals.

SEC. 116.5 Section 19289.5 is added to the Revenue and Taxation Code, to read:

19289.5 The Franchise Tax Board shall publish on or before December 31, 1978, and each December 31 thereafter, information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth in three ways:

(1) By adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income,

(2) By subtracting any investment expenses incurred in the production of such income to the extent of the investment income, and

(3) By making both of the adjustments referred to in paragraphs (1) and (2).

In any event these data are to include the number of such individuals with total income over two hundred thousand dollars ($200,000) who owe no state income tax (after credits) and the deductions, exclusions or credits used by them to avoid tax.

SEC. 117. Section 23404 is added to the Revenue and Taxation Code, to read:

23404 The Franchise Tax Board shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax treatment under this chapter for any income years.

SEC. 118. Section 23701a of the Revenue and Taxation Code is amended to read:

23701a. Labor, agricultural, or horticultural organizations other than cooperative organizations described in Section 24404 or 24405.

For purposes of this section, the term "agricultural" includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.

SEC. 119 Section 23701d of the Revenue and Taxation Code is amended to read

23701d. Corporations, community chests or trusts, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, (except as otherwise provided in Section 23704.5), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any

candidate for public office An organization is not organized exclusively for exempt purposes listed above unless its assets are irrevocably dedicated to one or more purposes listed in this section. Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section or Section 501(c)(3) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board; that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. The irrevocable dedication requirement shall not be a sole basis for revocation of an exempt determination made by the Franchise Tax Board prior to the effective date of this amendment.

SEC. 120. Section 23701t is added to the Revenue and Taxation Code, to read:

23701t. (a) Corporations or associations organized and operated to provide for the management, maintenance and care of association property and common areas, maintain architectural control and enforce protective restrictions, or promote the general welfare of the community comprising the association if—

(1) Sixty percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees and assessments from tenant-stockholders or owners of residential units, residences or lots;

(2) Ninety percent or more of the expenditures of the organization for the taxable years are expenditures solely for providing management, maintenance and care of association property or for the general welfare of the community comprising the association;

(3) No part of the net earnings inures (other than by providing management, maintenance and care of association property or by a rebate of excess membership dues, fees or assessments) to the benefit of any private shareholder or individual;

(4) The organization does not provide or maintain facilities to provide utilities for its members; and

(5) Amounts received as membership dues, fees and assessments not expended for association purposes during the taxable year are transferred to and held in trust to provide for the management, maintenance, and care of association property and common areas, or to promote the general welfare of the community comprising the association

(b) The term "association property" means—

(1) Property held by the organization,

(2) Property held in common by the members of the organization, and

(3) Property within the organization privately held by the members of the organization.

(c) A homeowners association shall be subject to tax under this part with respect to its "homeowners association taxable income," and such income shall be subject to tax as provided by Chapter 3 (commencing with Section 23501) of this part.

(1) For purposes of this section, the term "homeowners association taxable income" of any organization for any taxable year means an amount equal to the excess over one hundred dollars ($100) (if any) of—

(A) The gross income for the taxable year (excluding any exempt function income), over

(B) The deductions allowed by this part which are directly connected with the production of the gross income (excluding exempt function income)

(2) For purposes of this section, the term "exempt function income" means any amount received as membership fees, dues and assessments from tenant-shareholders or owners of residential units, residences or lots.

SEC. 121. Section 23704 of the Revenue and Taxation Code is amended to read:

23704. For purposes of this part, an organization shall be treated as an organization organized and operated exclusively for charitable purposes, if:

(a) Such organization is organized and operated solely:

(1) To perform, on a centralized basis, one or more of the following services which, if performed on its own behalf by a hospital which is an organization described in Section 23701d and exempt from taxation under Section 23701, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption: data processing, purchasing, warehousing, billing and collection, food, clinical, industrial engineering, laboratory, laundry, printing, communications, record center, and personnel (including selection, testing, training, and education of personnel) services; and

(2) To perform such services solely for two or more hospitals, and for no other individuals or organizations, each of which is:

(A) An organization described in Section 23701d which is exempt from taxation under Section 23701;

(B) A constituent part of an organization described in Section 23701d which is exempt from taxation under Section 23701 and which, if organized and operated as a separate entity, would constitute an organization described in Section 23701d, or

(C) Owned and operated by the United States, the state, a county, or a political subdivision, or an agency or instrumentality of any of the foregoing,

(b) Such organization is organized and operated on a cooperative

basis and allocates or pays, within 8½ months after the close of its income year, all net earnings to members on the basis of services performed for them; and

(c) If such organization has capital stock, all of such stock outstanding is owned by its members.

For purposes of this part, any organization which, by reason of the preceding sentence, is an organization described in Section 23701d and exempt from taxation under Section 23701, shall be treated as a hospital and as an organization referred to in Section 23736(e).

SEC. 122. Section 23704.5 is added to the Revenue and Taxation Code, to read:

23704.5. (a) (1) In the case of an organization to which this section applies, exemption from taxation under Section 23701 shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting to influence legislation, but only if such organization normally—

(A) Makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

(B) Makes grassroots expenditures in excess of the grassroots ceiling amount for such organization for each taxable year.

(2) For purposes of this section—

(A) The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in Section 23740(d)).

(B) The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under Section 23740.

(C) The term "grassroots expenditures" means expenditures for the purpose of influencing legislation (as defined in Section 23740(d) without regard to paragraph (1)(B) thereof).

(D) The grassroots ceiling amount for any organization for any taxable year is 150 percent of the grassroots nontaxable amount for such organization for such taxable year, determined under Section 23740.

(3) This section shall apply to any organization which has elected (in such manner and at such time as the Franchise Tax Board may prescribe) to have the provisions of this section apply to such organization and which, for the taxable year which includes the date the election is made, is described in Section 23701d and—

(A) Is described in paragraph (4), and

(B) Is not a disqualified organization under paragraph (5).

(4) An organization is described in this paragraph if it is described in—

(A) Section 17215.1(b)(2) (relating to educational institutions),

(B) Section 17215.1(b)(3) (relating to hospitals and medical research organizations),

(C) Section 17215.1(b)(4) (relating to organizations supporting

government schools),

(D) Section 17215.1(b)(6) (relating to organizations publicly supported by charitable contributions),

(E) Section 509(a)(2) of the Internal Revenue Code of 1954 (relating to organizations publicly supported by admissions, sales, etc.), or

(F) Section 509(a)(3) of the Internal Revenue Code of 1954 (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, Section 509(a)(3) of the Internal Revenue Code of 1954 shall be applied without regard to the last sentence of Section 509(a) of the Internal Revenue Code of 1954.

(5) For purposes of paragraph (3) an organization is a disqualified organization if it is—

(A) Described in Section 17215.1(b)(1) (relating to churches),

(B) An integrated auxiliary of a church or of a convention or association of churches, or

(C) A member of an affiliated group of organizations (within the meaning of Section 23740(f)(2)) if one or more members of such group is described in subparagraph (A) or (B)

(6) An election by an organization under this section shall be effective for all taxable years of such organization which—

(A) End after the date the election is made, and

(B) Begin before the date the election is revoked by such organization (under regulations prescribed by the Franchise Tax Board).

(7) With respect to any organization for a taxable year for which—

(A) Such organization is a disqualified organization (within the meaning of paragraph (5)), or

(B) An election under this section is not in effect for such organization,

nothing in this section or in Section 23740 shall be construed to affect the interpretation of the phrase, "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, under Section 23701d."

(8) For rule regarding affiliated organizations see Section 23740(f)

SEC. 123. Section 23704.6 is added to the Revenue and Taxation Code, to read:

23704.6. (a) An organization which—

(1) Was exempt (or was determined by the Franchise Tax Board to be exempt) from taxation under Section 23701 by reason of being an organization described in Section 23701d, and

(2) Is not an organization described in Section 23701d by reason of carrying on propaganda, or otherwise attempting, to influence legislation,

shall not at any time thereafter be treated as an organization described in Section 23701f

(b) The Franchise Tax Board shall prescribe such regulations as

may be necessary or appropriate to prevent the avoidance of subdivision (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

(c) Subdivision (a) shall not apply to any organization which is a disqualified organization within the meaning of Section 23704.5(s) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subdivision (a).

(d) This section shall apply to activities occurring after the enactment of this section by the 1977–78 Legislature.

SEC. 124. Section 23707 of the Revenue and Taxation Code is amended to read:

23707. (a) Except as provided in subdivision (b), the status of any organization as a private foundation shall be terminated only if—

(1) Such organization notifies the Franchise Tax Board (at such time and in such manner as the Franchise Tax Board may by regulations prescribe) of its intent to accomplish such termination, or

(2) Such organization has been terminated by the Attorney General of this state or by action taken pursuant to Section 507 of the Internal Revenue Code.

(b) (1) The status as a private foundation of any organization shall be terminated if—

(A) Such organization distributes all of its net assets to one or more organizations described below (other than clauses (vii), (viii), (ix) or (x)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution and exempt from tax under Section 23701d of the Revenue and Taxation Code or Section 501(c)(3) of the Internal Revenue Code during the last 60 months, or—

(i) A church or a convention or association of churches,

(ii) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

(iii) An organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made.

(iv) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or

other purpose or function constituting the basis for its exemption under Section 23701d) from the United States or any state or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a state or political subdivision thereof, or which is owned or operated by a state or political subdivision thereof or by an agency or instrumentality of one or more states or political subdivisions,

(v) A governmental unit referred to in subdivision (a) of Section 17214 of the Personal Income Tax Law,

(vi) An organization referred to in subdivision (b) of Section 17214 of the Personal Income Tax Law which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 23701d) from a governmental unit referred to in subdivision (a) of Section 17214 of the Personal Income Tax Law or from direct or indirect contributions from the general public,

(vii) A private operating foundation (as defined in Section 4942(j)(3) of the Internal Revenue Code),

(viii) Any other private foundation (as defined in Section 509(a) of the Internal Revenue Code) which, not later than the 15th day of the third month after the close of the foundation's taxable year in which contributions are received, makes qualifying distributions (as defined in Section 4942(g) of the Internal Revenue Code, as amended by P.L. 94-455, without regard to paragraph (3) thereof), which are treated, after the application of Section 4942(g)(3) of the Internal Revenue Code as distributions out of corpus (in accordance with Section 4942(h) of the Internal Revenue Code) in an amount equal to 100 percent of such contributions, and with respect to which the taxpayer maintains adequate records or other sufficient evidence from the foundation showing that the foundation made such qualifying distributions,

(ix) A private foundation all of the contributions to which are pooled in a common fund and which would be described in paragraph (3) of Section 509(a) of the Internal Revenue Code but for the right of any substantial contributor (hereafter in this clause called "donor") or his spouse to designate annually the recipients, from among organizations described in paragraph (1) of Section 509(a) of the Internal Revenue Code, of the income attributable to the donor's contribution to the fund and to direct (by deed or by will) the payment, to an organization described in such paragraph (1), of the corpus in the common fund shall apply only if all the income of the common fund is required to be (and is) distributed to one or more organizations described in such paragraph (1) not later

than the 15th day of the third month after the close of the taxable year in which the income is realized by the fund and only if all of the corpus attributable to any donor's contribution to the fund is required to be (and is) distributed to one or more of such organizations not later than one year after his death or after the death of his surviving spouse if she has the right to designate the recipients of such corpus, and

(x) An organization described in paragraph (2) or (3) of Section 509(a) of the Internal Revenue Code.

(B) Such organization meets the requirements of Section 507(b)(1)(B) or paragraph (1), (2), or (3) of Section 509(a) of the Internal Revenue Code, whichever applies, and furnishes copies of its federal notice of termination of its private foundation status to the Franchise Tax Board.

(2) For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

SEC. 125 Section 23708 of the Revenue and Taxation Code is amended to read:

23708. (a) For the purposes of this part, unless otherwise indicated in context, the term "an organization exempt from tax" shall mean an organization which has satisfied the provisions of Section 23701

(b) Except as provided in subdivision (c), any organization (including an organization in existence on December 31, 1970) which is described in Section 23701d and which does not notify the Franchise Tax Board at such time and such manner as the Franchise Tax Board may prescribe, that it is not a private foundation shall be presumed to be a private foundation. The time prescribed for giving notice under this subdivision shall not expire before the 90th day after the day on which the regulations first prescribed under this subdivision become final.

(c) Subdivision (b) shall not apply to—

(1) Churches, their integrated auxiliaries, and conventions or associations of churches, or

(2) Any organization which is not a private foundation (as defined in Section 23709).

(3) The Franchise Tax Board may by regulations exempt (to the extent and subject to such conditions as may be prescribed in such regulations) from the provisions of subdivision (b)—

(A) Educational organizations which normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on; and

(B) Any other class of organizations with respect to which the Franchise Tax Board determines that full compliance with the provisions of subdivision (b) is not necessary to the efficient

administration of the provisions of this title relating to private foundations.

(d) (1) No gift or bequest made to an organization upon which the tax provided by Section 507(c) of the Internal Revenue Code has been imposed shall be allowed as a deduction under Section 17214 or 24357, if such gift or bequest is made—

(A) By any person after notification of termination is made under Section 507(a) of the Internal Revenue Code, or

(B) By a substantial contributor (as defined in Section 507(d) (2) of the Internal Revenue Code) in his taxable year which includes the first day on which action is taken by such organization which culminates in the imposition of tax under Section 507(c) of the Internal Revenue Code and any subsequent taxable year.

(2) No gift or bequest made to an organization shall be allowed as a deduction under Section 17214, 17734 or 24357, if such gift or bequest is made—

(A) To a private foundation or trust described in Section 4947 of the Internal Revenue Code in a taxable year for which it fails to meet the requirements of subdivision (e) of this section (determined without regard to subparagraphs (B) and (C) of paragraph (2) of subdivision (e) of this section), or

(B) To any organization that has not established its exemption under Section 23701d or Section 501(c)(3) of the Internal Revenue Code for the period concerned.

(3) Paragraph (1) shall not apply if the entire amount of the unpaid portion of the tax imposed under Section 507(c) of the Internal Revenue Code is abated.

(e) (1) A private foundation shall not be exempt from taxation under Section 23701d unless its governing instrument includes provisions the effects of which are—

(A) To require its income for each taxable year to be distributed at such time and in such manner as not to subject the foundation to tax under Section 4942 of the Internal Revenue Code, as amended by P L. 94-455, and

(B) To prohibit the foundation from engaging in any act of self-dealing (as defined in Section 4941 of the Internal Revenue Code) from retaining any excess business holdings (as defined in Section 4943 of the Internal Revenue Code), from making any investments in such manner as to subject the foundation to tax under Section 4944 of the Internal Revenue Code.

(2) In the case of any organization organized before January 1, 1970, paragraph (1) shall not apply—

(A) To any taxable year beginning before January 1, 1972,

(B) To any period after December 31, 1971, during the pendency of any judicial proceeding begun before January 1, 1972, by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument in order to meet the requirements of paragraph (1), and

(C) To any period after the termination of any judicial proceeding described in subparagraph (B) during which its governing instrument or any other instrument does not permit it to meet the requirements of paragraph (1).

(3) This subdivision shall not apply to require the inclusion in governing instruments of any provisions inconsistent with this subdivision.

(f) Notwithstanding any of the requirements of this section, if they are determined to be met under federal law they are also met for state purposes.

SEC. 126. Section 23734b is added to the Revenue and Taxation Code, to read:

23734b. (a) For the purposes of Section 23734—

(1) The term "unrelated trade or business" does not include qualified public entertainment activities of an organization described in paragraph (2) (C), or qualified convention and trade show activities of an organization described in paragraph (3) (C).

(2) For purposes of this subdivision—

(A) The term "public entertainment activity" means any entertainment or recreational activity of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes, including, but not limited to, any activity one of the purposes of which is to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

(B) The term "qualified public entertainment activity" means a public entertainment activity which is conducted by a qualifying organization described in subparagraph (C) in—

(i) Conjunction with an international, national, state, regional, or local fair or exposition,

(ii) Accordance with the provisions of state law which permit the activity to be operated or conducted solely by such an organization, or by an agency, instrumentality, or political subdivision of such state, or

(iii) Accordance with the provisions of state law which permit such an organization to be granted a license to conduct not more than 20 days of such activity or payment to the state of a lower percentage of the revenue from such licensed activity than the state requires from organizations not described in Section 23701a, 23701d, or 23701f.

(C) For purposes of this paragraph, the term "qualifying organization" means an organization which is described in Section 23701a, 23701d, or 23701f which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition

(3) (A) The term "convention and trade show activity" means any activity of a kind traditionally conducted at conventions, annual meetings, or trade shows, including, but not limited to, any activity one of the purposes of which is to attract persons in an industry

generally (without regard to membership in the sponsoring organization) as well as members of the public to the show for the purpose of displaying industry products or to stimulate interest in, and demand for, industry products or services, or to educate persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry.

(B) The term "qualified convention and trade show activity" means a convention and trade show activity carried out by a qualifying organization described in subparagraph (C) in conjunction with an international, national, state, regional, or local convention, annual meeting, or show conducted by an organization described in subparagraph (C) if one of the purposes of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

(C) For purposes of this paragraph, the term "qualifying organization" means an organization described in Section 23701a or 23701e which regularly conducts as one of its substantial exempt purposes a show which stimulates interest in, and demand for, the products of a particular industry or segment of such industry.

(4) An organization described in Section 23701a, 23701d or 23701f shall not be considered as not entitled to the exemption allowed under Section 23701 solely because of qualified public entertainment activities conducted by it.

(b) This section shall apply to public entertainment activities, qualified convention activities and qualified trade show activities in taxable years beginning after December 31, 1976.

SEC. 127. Section 23734c is added to the Revenue and Taxation Code, to read:

23734c. In the case of a hospital described in Section 17215.1(b)(3), the term "unrelated trade or business" does not include the furnishing of one or more of the services described in Section 23704(a)(1) to one or more hospitals described in Section 17215.1(b)(3) if—

(a) Such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

(b) Such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

(c) Such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services.

SEC. 128. Section 23735 of the Revenue and Taxation Code is amended to read.

23735. (a) In computing under Section 23732 the unrelated business taxable income for any taxable year—

(1) There shall be included with respect to each debt-financed property as an item of gross income derived from an unrelated trade or business an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as (A) the average acquisition indebtedness (as defined in subdivision (C) (7)) for the taxable year with respect to the property is of (B) the average amount (determined under regulations prescribed by the Franchise Tax Board) of the adjusted basis of such property during the period it is held by the organization during such taxable year

(2) There shall be allowed with respect to each debt-financed property, as a deduction to be taken into account in computing unrelated debt-financed income an amount determined by applying (except as provided in the last sentence of this paragraph) the percentage derived under paragraph (1) to the sum determined under paragraph (3). The percentage derived under this paragraph shall not be applied with respect to the deduction of any capital loss resulting from the carryover of net capital losses under Section 18152

(3) The sum referred to in paragraph (2) is the sum of the deductions under this part which are directly connected with the debt-financed property or the income therefrom, except that if the debt-financed property is of a character which is subject to the allowance for depreciation provided in Section 17208 or 24349, the allowance shall be computed only by use of the straight-line method

(b) For the purpose of this section—

(1) The term "debt-financed property" means any property which is held to produce income and with respect to which there is an acquisition indebtedness (as defined in subdivision (c)) at any time during the taxable year (or, if the property was disposed of during the taxable year, with respect to which there was an acquisition indebtedness at any time during the 12-month period ending with the date of such disposition), except that such term does not include—

(A) (i) Any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other purpose of function constituting the basis for its exemption under Section 17631 or 23701; or

(ii) Any property to which clause (i) does not apply, to the extent that its use is so substantially related;

(B) Except in the case of income excluded under paragraph (5) of subdivision (b) of Section 23732, any property to the extent that the income from such property is taken into account in computing the gross income of any unrelated trade or business;

(C) Any property to the extent that the income from such property is excluded by reason of the provisions of paragraph (6), (7), or (8) of subdivision (b) of Section 23732 in computing the gross income of any unrelated trade or business; or

(D) Any property to the extent that it is used in any trade or business described in subdivision (a), (b), or (c) of Section 23734. For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 17631 or 23701 if such property is real property subject to a lease to a medical clinic entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 17631 or 23701.

(2) For purposes of applying subparagraphs (A), (C) and (D) of paragraph (1), the use of any property by an exempt organization which is related to an organization shall be treated as use by such organization

(3) (A) If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) in the manner described in subparagraph (A) of paragraph (1) and at the time of acquisition the property is in the neighborhood of other property owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period, and shall apply after the first five years of the 10-year period only if the organization establishes to the satisfaction of the Franchise Tax Board that it is reasonably certain that the land will be used in the described manner before the expiration of the 10-year period.

(B) If the first sentence of subparagraph (A) is inapplicable only because—

(i) The acquired land is not in the neighborhood referred to in subparagraph (A), or

(ii) The organization (for the period after the first five years of the 10-year period) is unable to establish to the satisfaction of the Franchise Tax Board that it is reasonably certain that the land will be used in the manner described in subparagraph (A) of paragraph (1) before the expiration of the 10-year period, but the land is converted to such use by the organization within the 10-year period,

the real property (subject to the provisions of subparagraph (D)) shall not be treated as debt-financed property for any period before such conversion For purposes of this subparagraph, land shall not be treated as used in the manner described in subparagraph (A) of paragraph (1) by reason of the use made of any structure which was on the land when acquired by the organization.

(C) Subparagraphs (A) and (B)—

(i) Shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land in the manner described in subparagraph (A) of paragraph (1) requires that the structure be demolished or removed in order to use the land in such manner;

(ii) Shall not apply to structures erected on the land after the acquisition of the land; and

(iii) Shall not apply to property subject to a lease which is an "Article 2" lease as (defined in Section 23735a).

(D) If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than Section 25781, relating to closing agreements and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of one year after the close of the taxable year in which the use condition is satisfied. Interest on any overpayment for a taxable year resulting from the application of subparagraph (b) after the actual use condition is satisfied shall be allowed and paid at the rate of 4 percent per annum in lieu of 6 percent per annum.

(E) In applying this paragraph to a church or convention or association of churches, in lieu of the 10-year period referred to in subparagraphs (A) and (B) a 15-year period shall be applied, and subparagraph (A) and clause (ii) of subparagraph (B) shall apply whether or not the acquired land meets the neighborhood test.

(c) For the purpose of this section—

(1) The term "acquisition indebtedness" means with respect to any debt-financed property, the unpaid amount of—

(A) The indebtedness incurred by the organization in acquiring or improving such property;

(B) The indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) The indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement;

except that in case of any taxable year beginning before January 1,

1972, any indebtedness incurred before June 28, 1966 shall not be taken into account unless such indebtedness constitutes Article 2 lease indebtedness (as defined in Section 23735a).

(2) Property acquired subject to mortgage shall be subject to the following rules, exceptions, and limitations.

(A) Where property (no matter how acquired) is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered as an indebtedness of the organization incurred in acquiring such property even though the organization did not assume or agree to pay such indebtedness.

(B) Where property subject to a mortgage is acquired by an organization by bequest or devise, the indebtedness secured by the mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of the acquisition. If an organization acquires property by gift subject to a mortgage which was placed on the property more than five years before the gift, which property was held by the donor more than five years before the gift, the indebtedness secured by such mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of such gift. This subparagraph shall not apply if the organization, in order to acquire the equity in the property by bequest, devise, or gift, assumes and agrees to pay the indebtedness secured by the mortgage, or if the organization makes any payment for the equity in the property owned by the decedent or the donor.

(C) Where state law provides that—

(i) A lien for taxes, or

(ii) A lien for assessments, made by a state or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with state law.

(3) An extension, renewal, or refinancing of an obligation evidencing a preexisting indebtedness shall not be treated, for the purpose of this section, as the creation of a new indebtedness.

(4) The term "acquisition indebtedness" does not include indebtedness the incurrence of which is inherent in the performance or exercise of the purpose or function constituting the basis of the organization's exemption.

(5) The term "acquisition indebtedness" does not include an obligation to pay an annuity which—

(A) Is the sole consideration (other than a mortgage to which subparagraph (B) of paragraph (2) applies) issued in exchange for property if, at the time of the exchange, the value of the annuity is less than 90 percent of the value of the property received in the exchange,

(B) Is payable over the life of one individual in being at the time

the annuity is issued or over the lives of two individuals in being at such time, and

(C) Is payable under a contract which—

(i) Does not guarantee a minimum amount of payments or specify a maximum amount of payments, and

(ii) Does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

(6) The term "acquisition indebtedness" does not include an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate-income persons.

(7) The term "average acquisition indebtedness" for any taxable year with respect to a debt-financed property means the average amount determined under regulations prescribed by the Franchise Tax Board, of the acquisition indebtedness during the period the property is held by the organization during the taxable year, except that for the purpose of computing the percentage of any gain or loss to be taken into account on a sale or other disposition of debt-financed property, such term means the highest amount of the acquisition indebtedness with respect to such property during the 12-month period ending with the date of the sale or other disposition

(d) If the property was acquired in a complete or partial liquidation of a corporation in exchange for its stock, the basis of the property, for the purposes of this article, shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain to the organization which was included, on account of such distribution, in its unrelated business taxable income under subdivision (a)

(e) Where debt-financed property is held for purposes described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subdivision (b) as well as for other purposes, proper allocation shall be made with respect to basis, indebtedness, and income and deductions. The allocations and exclusions required by this section shall be made in accordance with regulations prescribed by the Franchise Tax Board to the extent proper to carry out the purposes of this section.

SEC 129. Section 23740 is added to the Revenue and Taxation Code, to read:

23740. (a) This section applies to any organization with respect to which an election under Section 23704.5 (relating to lobbying expenditures by public charities) is in effect for the taxable year

(b) For purposes of this section, the term "excess lobbying expenditures" means for a taxable year, the greater of—

(1) The amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying on taxable amount for such organization for such taxable year, or

(2) The amount by which the grassroots expenditures made by

the organization during the taxable year exceed the grassroots nontaxable amount for such organization for such taxable year

(c) For purposes of this section—

(1) The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in subdivision (d)).

(2) The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) one million dollars ($1,000,000) or (B) the amount determined under the following table:

If the exempt purpose expenditures are—	The lobbying nontaxable amount is—
Not over $500,000	20 percent of the exempt purpose expenditures.
Over $500,000 but not over $1,000,000	$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.
Over $1,000,000 but not over $1,500,000	$175,000 plus 10 percent of the excess of the exempt purpose expenditures over $1,000,000.
Over $1,500,000	$225,000 plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.

(3) The term "grassroots expenditures" means expenditures for the purpose of influencing legislation (as defined in subdivision (d) without regard to paragraph (1)(B) thereof).

(4) The grassroots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

(d) (1) Except as otherwise provided in paragraph (2), for purposes of this section, the term "influencing legislation" means—

(A) Any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

(B) Any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation

(2) For purposes of this section, the term "influencing legislation," with respect to an organization, does not include—

(A) Making available the results of nonpartisan analysis, study, or research;

(B) Providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the

case may be;

(C) Appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization,

(D) Communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

(E) Any communication with a government official or employee, other than—

(i) A communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

(ii) A communication the principal purpose of which is to influence legislation.

(3) (A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1) (B) shall be treated as a communication described in paragraph (1) (B).

(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1) (A).

(e) For purposes of this section—

(1) (A) The term "exempt purpose expenditures" means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in Section 24359(b) (2) (relating to religious, charitable, educational, etc , purposes)

(B) The term "exempt purpose expenditures" includes—

(i) Administrative expenses paid or incurred for purposes described in Section 24359(b) (2), and

(ii) Amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in Section 24359(b) (2)).

(C) The term "exempt purpose expenditures" does not include amounts paid or incurred to or for—

(i) A separate fundraising unit of such organization, or

(ii) One or more other organizations, if such amounts are paid or incurred primarily for fundraising.

(2) The term "legislation" includes action with respect to acts, bills, resolutions, or similar items by the Congress, any state legislature, any local council, or similar governing body or by the public in a referendum, initiative, constitutional amendment, or similar procedure

(3) The term "action" is limited to the introduction, amendment,

enactment, defeat, or repeal of acts, bills, resolutions, or similar items.

(4) In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subdivision (b) (1) or (b) (2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under this part to amounts which are paid or incurred in a trade or business.

(f) (1) Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in Section 23701d are members of an affiliated group of organizations as defined in paragraph (2), and an election under Section 23704.5 is effective for at least one such organization for such year, then—

(A) The determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of Section 23704.5 (a) (1) have been exceeded shall be made as though such affiliated group is one organization.

(B) If such group has excess lobbying expenditures, each such organization as to which an election under Section 23704.5 is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures.

(C) If the expenditure limits of Section 23704.5(a) (1) are exceeded, each such organization as to which an election under Section 23704.5 is effective for such year shall be treated as an organization which is not described in Section 23701d by reason of the application of Section 23704.5, and

(D) Subparagraphs (C) and (D) of subdivision (d) (2), paragraph (3) of subdivision (d), and clause (i) of subdivision (e) (1) (C) shall be applied as if such affiliated group were one organization.

(2) For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

(A) The governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

(B) The governing board of one such organization includes persons who—

(i) Are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

(ii) By aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such

organization

(3) If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Franchise Tax Board.

(4) If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to acts, bills, resolutions, or similar items by the Congress or State Legislature, then—

(A) In the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying, expenditures and the determination as to whether such organization has exceeded the expenditure limits of Section 23704.5(a)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to acts, bills, resolutions, or similar items by the Congress or State Legislature, and

(B) In the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of Section 23704.5(a)(1) shall be made as though such organization is not a member of such affiliated group.

SEC. 130. Section 23772 of the Revenue and Taxation Code is amended to read:

23772. (a) For the purposes of this part—

(1) Except as provided in paragraph (2) every organization exempt from taxation under Section 23701 and every trust treated as a private foundation because of Section 4947(a)(1) of the Internal Revenue Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the laws under this part as the Franchise Tax Board may by rules or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Franchise Tax Board may from time to time prescribe. The return shall be filed on or before the 15th day of the fifth full calendar month following the close of the income year

(2) Exceptions from filing—

(A) Mandatory exceptions—Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or association of churches,

(ii) Any organization (other than a private foundation as defined in Section 23709), the gross receipts of which in each taxable year are normally not more than five thousand dollars ($5,000), or

(iii) The exclusively religious activities of any religious order,

(B) Discretionary exceptions—The Franchise Tax Board may permit the filing of a simplified return for organizations based on either gross receipts or total assets or both gross receipts and total assets, or may permit the filing of an information statement (without fee), or may permit the filing of a group return for incorporated or unincorporated branches of a state or national organization for branches with gross receipts of which in each taxable year are not more than ten thousand dollars ($10,000) where it determines that an information return is not necessary to the efficient administration of this part

(3) An organization that is required to file an annual information return shall pay a filing fee of five dollars ($5) on or before the due date for filing the annual information return (determined with regard to any extension of time for filing the return) required by this section In case of failure to pay the fee on or before such due date unless it is shown that such failure is due to reasonable cause, the filing fee shall be ten dollars ($10). All collection remedies provided in Chapter 23 (commencing with Section 26131) of this part shall be applicable to collection of the filing fee. However, the filing fee shall not apply to the organization described in paragraph (4).

(4) Paragraph (3) shall not apply to· (A) a religious organization exempt under Section 23701d; (B) an educational organization exempt under Section 23701d, if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; (C) a charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under Section 23701d, if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public, (D) an organization exempt under Section 23701d, if such organization is operated, supervised, or controlled by or in connection with a religious organization described in subparagraph (A).

(b) Every organization described in Section 23701d which is subject to the requirements of subdivision (a) shall furnish annually information, at such time and in such manner as the Franchise Tax Board may by rules or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation manager (within the meaning of Section 4946 of the Internal Revenue Code) and highly compensated employees,

(7) The compensation and other payments made during the year to each individual described in paragraph (6), and

(8) In the case of an organization with respect to which an election under Section 23704.5 is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) The lobbying expenditures (as defined in Section 23704(c)(1)).

(B) The lobbying nontaxable amount (as defined in Section 23740(c)(2)).

(C) The grassroots expenditures (as defined in Section 23740(c)(3)).

(D) The grassroots nontaxable amount (as defined in Section 23740(c)(4)) For purposes of this paragraph, if Section 23740(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) In addition to the above annual return any organization which is required to file an annual report under Section 6056 of the Internal Revenue Code will furnish a copy of the report to the Franchise Tax Board at the time the annual return is due

(d) For the purposes of this part—

(1) In the case of a failure to file a return required under Section 23772 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the exempt organization or trust failing so to file, five dollars ($5) for each month or part thereof during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed forty dollars ($40)

(2) The Franchise Tax Board may make written demand upon a private foundation failing to file under paragraph (1) of this subdivision or subdivision (c) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing so to file, in addition to the penalty prescribed in paragraph (1), a penalty of five dollars ($5) each month or part thereof after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed twenty-five dollars ($25) If more than one person is liable

under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(e) The reporting requirements and penalties shall be applicable for income years beginning after December 31, 1970, except that the provisions of subparagraph (B) of paragraph (2) of subdivision (a) shall apply to income years ending after December 31, 1970.

SEC 131. Section 24311 of the Revenue and Taxation Code is repealed.

SEC. 132. Section 24353.1 is added to the Revenue and Taxation Code, to read:

24353 1. (a) (1) In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after December 31, 1976, occupied by a certified historic structure (as defined in Section 24381(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in Section 24381(d)(3)) after such date—

(A) Sections 24349(b), 24354.1 and 24354.2 shall not apply,

(B) The term "reasonable allowance" as used in Section 24349(a) shall mean only an allowance computed under the straight line method

(2) The limitations imposed by this section shall not apply to personal property

This subdivision shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1976, and before January 1, 1981.

(b) (1) Pursuant to regulations prescribed by the Franchise Tax Board, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with it The election shall be effective with respect to the income year referred to in paragraph (2) and all succeeding income years

(2) For purposes of paragraph (1), the term "substantially rehabilitated historic property" means any certified historic structure (as defined in Section 24381(d)(1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in Section 24381(d)(3)) during the 24-month period ending on the last day of any income year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

(A) The adjusted basis of such property, or

(B) Five thousand dollars ($5,000).

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property, whichever is later.

This subdivision shall apply with respect to additions to capital account occurring after December 31, 1976, and before July 1, 1981

SEC 133. Section 24354.2 of the Revenue and Taxation Code is amended to read:

24354.2 (a) The taxpayer may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by subdivision (a) of Section 24349 attributable to rehabilitation expenditures incurred with respect to low-income rental housing after December 31, 1970, and before January 1, 1975, under the straight line method using a useful life of 60 months and no salvage value. Such method shall be in lieu of any other method of computing the depreciation deduction under subdivision (a) of Section 24349, and in lieu of any deduction for amortization, for such expenditures.

(b) (1) The aggregate amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit in any low-income rental housing which may be taken into account under subdivision (a) shall not exceed twenty thousand dollars ($20,000).

(2) Rehabilitation expenditures paid or incurred by the taxpayer in any income year with respect to any dwelling unit in any low-income rental housing shall be taken into account under subdivision (a) only if over a period of two consecutive years, including the income year, the aggregate amount of such expenditures exceeds three thousand dollars ($3,000).

(c) For purposes of this section:

(1) The term "rehabilitation expenditures" means amounts chargeable to capital account and incurred for property or additions or improvements to property (or related facilities) with a useful life of five years or more, in connection with the rehabilitation of an existing building for low-income rental housing; but such term does not include the cost of acquisition of such building or any interest therein.

(2) The term "low-income rental housing" means any building the dwelling units in which are held for occupancy on a rental basis by families and individuals of low or moderate income, as determined by the Franchise Tax Board in a manner consistent with the Leased Housing Program under Section 8 of the United States Housing Act of 1937 pursuant to regulations prescribed under this section.

(3) The term "dwelling unit" means a house or an apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, inn, or other establishment more than one-half of the units in which are used on a transient basis.

(4) Rehabilitation expenditures incurred pursuant to a binding contract entered into before January 1, 1978, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, shall be deemed incurred before January 1, 1978.

(d) The amendments made by the 1977–78 Legislature shall apply to expenditures paid or incurred after December 31, 1976, and before

January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978. The amendment made in subdivision (b) shall apply to expenditures incurred after December 31, 1976.

SEC. 134. Section 24357.2 of the Revenue and Taxation Code is amended to read:

24357.2. (a) In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under Section 24357 only to the extent that the value of the interest contributed would be allowable as a deduction under Section 24357 if such interest had been transferred in trust. For purposes of this subdivision, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(b) Subdivision (a) shall not apply to a contribution of—

(1) A remainder interest in a personal residence or farm,

(2) An undivided portion of the taxpayer's entire interest in property,

(3) A lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in Section 170(b)(1)(A) of the Internal Revenue Code of 1954 exclusively for conservation purposes, or

(4) A remainder interest in real property which is granted to an organization described in Section 170(b)(1)(A) of the Internal Revenue Code of 1954 exclusively for conservation purposes.

(c) For purposes of subdivision (b), the term "conservation purposes" means—

(1) The preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

(2) The preservation of historically important land areas or structures; or

(3) The protection of natural environmental systems.

(d) The amendments made to this section by the 1977–78 Legislature shall apply with respect to contributions or transfers made after December 31, 1976, and before June 14, 1977.

SEC 135 Section 24357.6 is added to the Revenue and Taxation Code, to read:

24357 6 No deduction shall be allowed under this part for an out-of-pocket expenditure made on behalf of an organization described in Section 24359 (other than an organization described in Section 23704.5(a)(5) (relating to churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of Section 23701d).

SEC. 136. Section 24359 of the Revenue and Taxation Code is amended to read·

24359. For purposes of Sections 24357 to 24359, inclusive, the term "charitable contribution" means a contribution or gift to or for the use of—

(a) A state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(b) A corporation, trust, or community chest, fund, or foundation—

(1) Created or organized in the United States or in any possession thereof, or under the law of the United States, any state, the District of Columbia, or any possession of the United States;

(2) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals,

(3) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(4) Which is not disqualified for tax exemption under Section 23701d by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a bank or corporation to a trust, chest, fund, or foundation shall be deductible by reason of this section only if it is to be used within the United States or any of its possessions exclusively for purposes specified in paragraph (2).

(c) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(1) Organized in the United States or any of its possessions, and

(2) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

SEC. 137. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization

deduction for such month The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 24349. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1977, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and—

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is

identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1970, or

(ii) Acquired after December 31, 1970, if the original use of the property commences with the taxpayer and commences after such date.

(B) In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1970.

(C) In the case of any treatment facility used in connection with any plant or other property not in operation before January 1971, the preceding sentence shall be applied by substituting December 31, 1976, for December 31, 1970.

(e) The State Department of Health shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) The amendment made to subdivision (d) by the 1977–78 Legislature shall apply to income years beginning after December 31, 1976 Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

SEC. 138. Section 24380 is added to the Revenue and Taxation Code, to read:

24380. (a) (1) A taxpayer may elect to treat qualified architectural and transportational barrier removal expenses which are paid or incurred by it during the income year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) An election under paragraph (1) shall be made at such time and in such manner as the Franchise Tax Board prescribes by regulations

(b) For purposes of this section—

(1) The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with its trade or business more accessible to, and usable by, handicapped and elderly individuals

(2) The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Franchise Tax Board, that the resulting removal of any such barrier meets the standards promulgated by the Secretary of the Treasury of the United States, with the concurrence of the Architectural and Transportation Barriers Compliance Board.

(3) The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

(c) The deduction allowed by subdivision (a) for any income year shall not exceed twenty-five thousand dollars ($25,000)

(d) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section

(e) This section shall apply to income years beginning after December 31, 1976, and before January 1, 1980.

SEC. 139 Section 24381 is added to the Revenue and Taxation Code, to read:

24381 (a) Every taxpayer, at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subdivision (d)) based on a period of 60 months Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to

such basis for such month provided by Sections 24349 to 24354.2, inclusive. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the income year succeeding the income year in which such basis is acquired, shall be made by filing with the Franchise Tax Board, in such manner, in such form, and within such time as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer who has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Sections 24349 to 24354.2, inclusive, shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) For purposes of this section—

(1) The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in Sections 24349 to 24354.2, inclusive, which—

(A) Is listed in the National Register,

(B) Is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

(C) Is located in an historic district designated under a statute of the appropriate state or local government if such statute is certified by the Secretary of the Interior to the Secretary of the Treasury as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

(2) The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(3) The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary of the Treasury as being consistent with the historic character of such property or the district in which such property is located.

(e) The depreciation deduction provided by Sections 24349 to 24354.2, inclusive, shall, despite the provisions of subdivision (a), be

allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) For rules relating to the listing of buildings and structures in the National Register and for definitions of "National Register" and "Registered Historic District," see Section 470 et seq. of Title 16 of the United States Code.

(g) This section shall apply with respect to additions to capital account after December 31, 1976, and before June 15, 1981.

SEC. 140 Section 24413 of the Revenue and Taxation Code is amended to read:

24413. (a) Corporations, trusts and associations which are subject to the provisions of this part for the income year, and which qualify for such income year for federal tax purposes as "real estate investment trusts" under Part II (commencing with Section 856) of Subchapter M of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 (as amended by Public Law 93-625 and Public Law 94-455), shall be entitled to (1) a deduction for income distributed during the income year, and (2) a deduction for deficiency dividends, as defined in Section 859 of the Internal Revenue Code of 1954, as amended by Public Law 94-455, for the income year in which the deficiency occurred.

(b) For the purposes of this section, if a real estate investment trust:

(1) Declares a dividend before the time prescribed by law for the filing of its return for an income year (including the period of any extension of time granted for filing such return); and

(2) Distributes the amount of such dividend to shareholders or holders of beneficial interests in the 12-month period following the close of such income year and not later than the date of the first regular dividend payment made after such declaration, the amount so declared and distributed shall, to the extent the trust elects in its return filed with the Internal Revenue Service pursuant to Section 858 of the Internal Revenue Code of 1954, be considered as having been paid during such income year, except as provided in subdivision (c)

(c) Amounts to which subdivision (b) applies shall be treated as received by the shareholder or holder of a beneficial interest in the income year in which the distribution is made.

SEC. 141. Section 24422 of the Revenue and Taxation Code is amended to read:

24422. No deduction shall be allowed for—

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This subdivision shall not apply to—

(1) Expenditures for the development of mines or deposits deductible under Section 24836,

(2) Soil and water conservation expenditures deductible under Section 24369;

(3) Expenditures for farmers for fertilizer, etc., deductible under

Section 24377;

(4) Research and experimental expenditures deductible under Sections 24365 to 24368, inclusive, or

(5) Expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under Section 24380.

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

SEC. 142. Section 24422.5 of the Revenue and Taxation Code is amended to read.

24422.5. (a) Except as provided in subdivision (b), any amount (allowable as a deduction without regard to this section), which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove, other fruit or nut grove or vineyard (or part thereof), and which is incurred before the close of the fourth income year beginning with the income year in which the trees were planted, shall be charged to capital account For purposes of the preceding sentence, the portion of a citrus or almond grove, other fruit or nut grove or vineyard planted in one income year shall be treated separately from the portion of such grove planted in another income year.

(b) Subdivision (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus or almond grove, other fruit or nut grove or vineyard (or part thereof) which was:

(1) Replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests or casualty, or

(2) Planted or replanted prior to the enactment of this section with respect to citrus groves, or planted or replanted prior to the effective date of the amendments to this section at the 1971 First Extraordinary Session of the Legislature with respect to almond groves or planted or replanted prior to the effective date of the amendments to this section at the 1975–76 Regular Session of the Legislature with respect to other fruit or nut groves, or planted or replanted prior to the effective date of the amendments to this section at the 1977–78 Regular Session of the Legislature with respect to vineyards

SEC. 143. Section 24434 of the Revenue and Taxation Code is amended to read:

24434. (a) In the case of a taxpayer (other than a bank as defined in Section 23039) no deduction shall be allowed under Section 24348 (relating to bad debts) or under Section 24347(d) (relating to worthlessness of securities) by reason of the worthlessness of any debt owed by a political party.

(b) (1) For purposes of subsection (a), the term "political party" means—

(A) A political party;

(B) A national, state, or local committee of a political party, or

(C) A committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice presidential electors or of any individual whose name is presented for election to any federal, state, or local elective public office, whether or not such individual is elected.

(2) For purposes of paragraph (1) (C), the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) For purposes of paragraph (1) (C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

(c) In the case of a taxpayer who uses an accrual method of accounting, subdivision (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if—

(1) For the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades or businesses of the taxpayer were due from political parties, and

(2) The taxpayer made substantial continuing efforts to collect on the debt.

SEC. 144. Section 24442 is added to the Revenue and Taxation Code, to read:

24442. (a) In the case of the demolition of a certified historic structure (as defined in Section 24381(d) (1))—

(1) No deduction otherwise allowable under this part shall be allowed to the owner or lessee of such structure for—

(A) Any amount expended for such demolition, or

(B) Any loss sustained on account of such demolition; and

(2) Amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

(b) For purposes of this section, any building or other structure located in a registered historic district shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district.

This section shall apply with respect to demolitions commencing after December 31, 1976, and before January 1, 1981.

SEC 145 Section 24514 of the Revenue and Taxation Code is amended to read:

24514 (a) This section and Sections 24512 and 24513 shall not apply to any sale or exchange—

(1) Made by a collapsible corporation (as defined in Section 17412

of the Personal Income Tax Law), or

(2) Following the adoption of a plan of complete liquidation, if Section 24503 applies with respect to such liquidation.

(b) In the case of a sale or exchange following the adoption of a plan of complete liquidation, if Section 24502 applies with respect to such liquidation, then

(1) If the basis of the property of the liquidating corporation in the hands of the distributee is determined under Section 24504(b)(1), this section and Sections 24512 and 24513 shall not apply; or

(2) If the basis of the property of the liquidating corporation in the hands of the distributee is determined under Section 24504(b)(2), this section and Sections 24512 and 24513 shall apply only to that portion (if any) of the gain which is not greater than the excess of (A) that portion of the adjusted basis (adjusted for any adjustment required under the second sentence of Section 24504(b)(2) of the stock of the liquidating corporation which is allocable, under regulations prescribed by the Franchise Tax Board, to the property sold or exchanged, over (B) the adjusted basis, in the hands of the liquidating corporation, of the property sold or exchanged.

This subdivision shall not apply to a sale or exchange by a member of an affiliated group of corporations, as defined in Section 23361, if each member of such group (including the common parent corporation) which receives, within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the corporation which made the sale or exchange, a distribution in complete liquidation from any other member of such group is itself completely liquidated within such 12-month period.

(c) The amendment made to subdivision (b) by the 1977–78 Regular Session of the Legislature shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1976.

SEC. 145.1. Section 24561 of the Revenue and Taxation Code is repealed.

SEC. 145.2. Section 24561 is added to the Revenue and Taxation Code, to read:

24561. (a) (1) If, in connection with any exchange described in Section 24502, 24521, 24531, 24532, 24533, 24535, 24536, 24537, 24538, 24539, or 24551, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183rd day after the beginning of such transfer (and filed in such form and manner as may be prescribed by regulations by the Franchise Tax Board), it is established to the satisfaction of the Franchise Tax Board that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of taxes under this part.

(2) Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Franchise Tax Board by regulations designates as not requiring the filing of a request.

(b) (1) In the case of any exchange described in Section 24502, 24521, 24531, 24532, 24533, 24535, 24536, 24537, 24538, 24539, or 24551 in connection with which there is no transfer of property described in subdivision (a) (1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Franchise Tax Board which are necessary or appropriate to prevent the avoidance of taxes under this part.

(2) The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

(A) The circumstances under which—

(i) Gain shall be recognized currently, or amounts included in gross income currently as a dividend, of both, or

(ii) Gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

(B) The extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

(c) (1) For purposes of this section, any distribution described in Sections 24532 and 24533 (or so much of Sections 24535 to 24539, inclusive, as relates to Sections 24532 and 24533) shall be treated as an exchange whether or not it is an exchange.

(2) For purposes of this part, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who immediately after the transfer, own (within the meaning of Section 24497) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

(d) In the case of any exchange beginning before January 1, 1978—

(1) Subdivision (a) shall be applied without regard to whether or not there is a transfer of property described in subdivision (a) (1), and

(2) Subdivision (b) shall not apply.

SEC. 146. Section 24562 of the Revenue and Taxation Code is amended to read:

24562 (a) For purposes of Chapters 8 (commencing with Section 24451) and 9 (commencing with Section 24501) and this chapter, the term "reorganization" means—

(1) A statutory merger or consolidation,

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of

the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535;

(5) A recapitalization; or

(6) A mere change in identity, form, or place of organization, however effected.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, such transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If—

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then such acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1),

paragraph (2) or paragraph (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) of subdivision (a), if—

(A) Such transaction would have qualified under paragraph (1) of subdivision (a) if the merger had been into the controlling corporation, and

(B) No stock of the acquiring corporation is used in the transaction.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if—

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer

(C) For purposes of this paragraph the term "investment company" means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities more than 80 percent

of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company which is not diversified within the meaning of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation If such investment company acquires stock of another corporation in a reorganization described in Section 24562(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of Section 24901, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated as a sale or exchange of property by the corporation and by the shareholders and security holders to which subparagraph (A) is applied.

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

SEC. 147. Section 24652 is added to the Revenue and Taxation Code, to read:

24652. (a) Except as otherwise provided by law, the income from farming of—

(1) A corporation engaged in the trade or business of farming, or

(2) A partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership, shall be computed on an accrual method of accounting and with the capitalization of

preproductive expenses described in subdivision (b). This section shall not apply to the trade or business of operating a nursery or to the raising or harvesting of trees (other than fruit and nut trees).

(b) (1) For purposes of this section, the term "preproductive period expenses" means any amount which is attributable to crops, animals, or any other property having a crop or yield during the preproductive period of such property.

(2) Paragraph (1) shall not apply—

(A) To taxes and interest, and

(B) To any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought.

(3) For purposes of this subdivision, the term "preproductive period" means—

(A) In the case of property having a useful life of more than one year which will have more than one crop or yield, the period before the disposition of the first such marketable crop or yield, or

(B) In the case of any other property, the period before such property is disposed of.

For purposes of this section, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

(c) For purposes of subdivision (a), a corporation shall be treated as not being a corporation if it is—

(1) An electing small business corporation (within the meaning of Section 1371(b) of the Internal Revenue Code of 1954).

(2) A corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, or

(3) A corporation the gross receipts of which meet the requirements of subdivision (e).

(d) For purposes of subdivision (c)(2)—

(1) The members of the same family are an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

(2) Stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

(3) If 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as "first corporation") is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation (or a wholly owned subsidiary of such second corporation) owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value

of all the stock in the first corporation

For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

(e) A corporation meets the requirements of this subdivision if, for each prior year beginning after December 31, 1976, such corporation (and any predecessor corporation) did not have gross receipts exceeding one million dollars ($1,000,000). For purposes of the preceding sentence, all corporations which are members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one corporation.

(f) In the case of any taxpayer required by this section to change its method of accounting for any income year—

(1) Such change shall be treated as having been made with the consent of the Franchise Tax Board,

(2) For purposes of Section 24721(b), such change shall be treated as a change not initiated by the taxpayer, and

(3) Under regulations prescribed by the Franchise Tax Board, the net amount of adjustments required by Section 24721 to be taken into account by the taxpayer in computing income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 income years beginning with the year of change.

(g) (1) If—

(A) For its 10 income years ending with its first income year beginning after December 31, 1976, a corporation used an annual accrual method of accounting with respect to its trade or business of farming,

(B) Such corporation raises crops which are harvested not less than 12 months after planting and

(C) Such corporation has used such method of accounting for all income years intervening between its first income year beginning after December 31, 1976, and the income year,

such corporation may continue to employ such method of accounting for the income year with respect to its trade or business of farming.

(2) For purposes of paragraph (1), the term "annual accrual method of accounting" means a method under which revenues, costs, and expenses are computed on an accrual method of accounting and the preproductive expenses incurred during the income year are charged to harvested crops or deducted in determining the income for such years

(3) For purposes of this subdivision, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its income on an annual accrual method of accounting during the period for which the transferor corporation computed its income from such trade or business on an annual accrual method.

(h) (1) If—

(A) A corporation has computed its income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops for the 10 income years ending with its first income year beginning after December 31, 1976,

(B) Such corporation raises crops which are harvested not less than 12 months after planting, and

(C) Such corporation elects, within one year after the date of the enactment of this section and in such manner as the Franchise Tax Board prescribes, to change to the annual accrual method of accounting (within the meaning of subdivision (g) (2)) for income years beginning after December 31, 1977,

such change shall be treated as having been made with the consent of the Franchise Tax Board, and, under regulations prescribed by the Franchise Tax Board, the net amount of the adjustments required by Section 24721 to be taken into account by the taxpayer in computing income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 income years beginning with the year of change.

(2) A corporation which elects under paragraph (1) to change to the annual accrual method of accounting shall, for purposes of subdivision (g), be deemed to be a corporation which has computed its income on an annual accrual method of accounting for its 10 income years ending with its first income year beginning after December 31, 1976.

(3) For purposes of this subdivision, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops during the period for which the transferor corporation computed its income from such trade or business on such accrual and static value method.

SEC. 148. Section 24662 of the Revenue and Taxation Code is amended to read:

24662. (a) (1) In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the income year following the income year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following income year.

For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (A) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (B) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds

received as a result of destruction or damage to crops.

An election under this section for any income year shall be made at such time and in such manner as the Franchise Tax Board prescribes.

The amendment made to paragraph (1) by the 1977–78 Regular Session of the Legislature (2) shall apply to payments received after income years beginning after December 31, 1976.

(b) (1) In the case of income derived from the sale or exchange of livestock (other than livestock described in Section 18182(b)) in excess of the number the taxpayer would sell if it followed its usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the income year following the income year in which such sale or exchange occurs if it establishes that, under its usual business practices, the sale or exchange would not have occurred in the income year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the federal government

(2) Subdivision (a) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of Section 6420(c)(3) of the Internal Revenue Code of 1954).

SEC. 149. Section 24686 is added to the Revenue and Taxation Code, to read

24686. (a) If the income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Franchise Tax Board, is properly allocable to any period—

(1) With respect to which the interest represents a charge for the use or forbearance of money, and

(2) Which is after the close of the income year in which paid, shall be charged to capital account and shall be treated as paid in the period to which so allocable.

(b) (1) Except as provided in paragraph (2), subdivision (a) shall not apply to amounts paid before January 1, 1978, pursuant to a binding contract or written loan commitment which existed on September 16, 1976 (and at all times thereafter), and which required prepayment of such amounts by the taxpayer

SEC. 150. Section 24949.2 of the Revenue and Taxation Code is amended to read:

24949.2. (a) For purposes of Sections 24943 through 24945, if real property (not including stock in trade or other property held primarily for sale) held for productive use in trade or business or for investment is (as a result of its seizure, requisition, or condemnation, or threat or imminence thereof) compulsorily or involuntarily converted, property of a like kind to be held either for productive use in trade or business or for investment shall be treated as property similar or related in service or use to the property so converted

(b) (1) Subsection (a) shall not apply to the purchase of stock in

the acquisition of control of a corporation described in Section 24944(a).

(2) Subsection (a) shall apply with respect to the compulsory or involuntary conversion of any real property only if the disposition of the converted property (within the meaning of Section 24943(b)) occurs after December 31, 1960.

(c) (1) A taxpayer may elect, at such time and in such manner as the Franchise Tax Board may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this part.

(2) An election made under paragraph (1) may not be revoked without the consent of the Franchise Tax Board.

(3) For purposes of this subdivision, the term "outdoor advertising display" means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

(4) For purposes of this subdivision, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in paragraph (3) (and treated by the taxpayer as real property) shall be considered property of a like kind as the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property.

(d) In the case of a compulsory or involuntary conversion described in subdivision (a), paragraph (1) of subdivision (b) of Section 24944 shall be applied by substituting "three years" for "two years."

(e) Subdivision (d) shall apply with respect to any disposition of converted property (within the meaning of Section 24944) after December 31, 1976.

SEC 151. Section 24989 is added to the Revenue and Taxation Code, to read:

24989. (a) If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

(1) The adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

(2) The gain (if any) recognized by the transferor on the transfer of such contract.

For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of Section 24512, shall be treated as recognized to the extent recognized by the transferor's shareholders

(b) Subdivision (a) shall not apply—

(1) To an exchange described in Section 24941 (relating to exchange of property held for productive use or investment), and

(2) To property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of Section 18044).

(c) Under regulations prescribed by the Franchise Tax Board, the transfer shall, at the times and in the manner provided in such regulations, furnish to the Franchise Tax Board and to the transferee the following information:

(1) The amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subdivision (a), and

(2) The amount which the transferor believes to be the gain referred to in paragraph (2) of subdivision (a), and

(3) Any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

(d) In the case of any sale or exchange described in subdivision (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Franchise Tax Board that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration to contracts for the services of athletes is a proper allocation.

(e) This section shall apply to sales or exchanges of franchises after December 31, 1976, in income years ending after the enactment of this section.

SEC. 152. (a) For purposes of Section 17202 of the Revenue and Taxation Code, in the case of any individual who was a Member of the State Legislature at any time during any taxable year beginning before January 1, 1977, and who elects the application of this section, for any period during such a taxable year in which he was a state legislator—

(1) The place of residence of such individual within the legislative district which he represented shall be considered his home, and

(2) He shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the executive branch of the federal government for per diem while away from home but serving in the United States, as specified in Section 5702 of Title 5 of the United States Code, as it read on July 1, 1977.

(b) For purposes of subdivision (a), a legislative day during any taxable year for any individual shall be any day during such year on which (1) the Legislature was in session (including any day in which

the Legislature was not in session for a period of four consecutive days or less), or (2) the Legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such Legislature.

(c) An election made under this section shall be made at such time and in such manner as the Franchise Tax Board shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1977, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this section.

SEC. 153. Until January 1, 1979, the law with respect to the duty of an employer under Section 18802 of the Revenue and Taxation Code to report charge account tips of employees to the Franchise Tax Board (other than charge account tips included in statements furnished to the employer under Section 18824 of the Revenue and Taxation Code) shall be administered—

(1) Without regard to federal Revenue Rulings 75-400 and 76-231, and

(2) In accordance with the manner in which such law was administered before the issuance of such rulings.

SEC. 154. (a) With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued by the Internal Revenue Service after the enactment of Public Law 94-455 (the Tax Reform Act of 1976), the application of Sections 17071 (as it relates to cost of goods sold), 17202, 17223, 17283 and 17601 of the Revenue and Taxation Code to any prepublication expenditures shall be administered—

(1) Without regard to federal Revenue Ruling 73-395, and

(2) In such manner in which such sections were applied consistently by the taxpayer to such expenditures before the date of the issuance of such revenue ruling.

(b) Any regulations issued by the Internal Revenue Service after the date of the enactment of Public Law 94-455 (the Tax Reform Act of 1976) which deals with the application of Sections 17071 (as it relates to cost of goods sold), 17202, 17223, 17283 and 17601 of the Revenue and Taxation Code to prepublication expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) For purposes of this section, the term "prepublication expenditures" means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

SEC 155 No addition to the tax shall be made under Sections 18685.05 or 25951 of the Revenue and Taxation Code (relating to failure to pay estimated income tax) for any period before April 18, 1978 (March 16, 1978, in the case of a taxpayer subject to Section 25951), with respect to any underpayment, to the extent that such

underpayment was created or increased by any provision of this act.

SEC 156. No person shall be liable in respect of any failure to deduct and withhold under Section 18806 of the Revenue and Taxation Code (relating to income tax collected at source) on remuneration paid before January 1, 1978, to the extent that the duty to deduct and withhold was created or increased by any provision of this act.

SEC. 157. All sections of this act affecting changes to the Personal Income Tax Law, un ess otherwise specified in such sections, shall be applied in the computation of taxes for taxable years beginning after December 31. 1976.

SEC. 158. Notwithstanding Section 157, Section 152 of this act shall be applied in the manner specified in such section.

SEC. 159. All sections in this act affecting changes to the Bank and Corporation Tax Law, unless otherwise specified in such sections, shall be applied in the computation of taxes for income years beginning after December 31, 1976

SEC. 160. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 161. If this act is chaptered and Assembly Bill No. 30 is also chaptered, the amendments made to Section 24413 of the Revenue and Taxation Code (relating to real estate investment trusts) by Section 140 of this act shall not take effect

SEC. 162. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1080

An act to amend Sections 19401, 19414, 19421, 19423, 19426, 19429, 19431, 19440, 19441, 19530, 19549, and 19613 of, to amend and renumber Sections 19409 and 19442 of, and to add Sections 19409, 19424.5, 19442, 19510.5, 19611.5, 19612.5, and 19614.2 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 26, 1977 Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 19401 of the Business and Professions Code is amended to read:

19401. The intent of this chapter is to allow parimutuel wagering on horseraces, while·

(a) Assuring protection of the public;

(b) Encouraging agriculture and the breeding of horses in this state; and

(c) Generating public revenues.

(d) Providing for maximum expansion of horseracing opportunities in the public interest.

(e) Providing uniformity of regulation for each type of horseracing

SEC. 2. Section 19409 of the Business and Professions Code is amended and renumbered to read:

19409.5. "Harness horse racing is that form of horseracing in which "standardbred horses" as defined in Section 19409 are harnessed to a sulky or similar vehicle, and are raced at either the trotting or pacing gait.

SEC. 3. Section 19409 is added to the Business and Professions Code, to read:

19409. A "standardbred horse" is any horse (including mare, gelding, colt and filly) that meets the requirements of and is registered by the United States Trotting Association, including foreign horses meeting the requirements of the United States Trotting Association. For the purposes of this section, this definition shall also apply to the term "harness horse."

SEC. 4. Section 19414 of the Business and Professions Code is amended to read:

19414. "Quarter horse racing" means that form of horseracing in which the participating horses are "quarter horses" as defined in Section 19413.5, and are ridden by jockeys in races over distances not more than one-half of a mile.

SEC 5. Section 19421 of the Business and Professions Code is amended to read:

19421. The board consists of five members, appointed by the Governor.

Each member shall hold office for a term of four years, commencing at the expiration of the previous term.

The term of the members of the board in office on January 1, 1959, shall expire as follows: one member July 26, 1959, one member July 26, 1960, and one member July 26, 1961 The terms shall expire in the same relative order as to each member as the term for which he holds office on January 1, 1959.

The term of the members appointed pursuant to amendments made to this section during the 1977–1978 legislative session shall expire as follows· one on January 1, 1979 and one on January 1, 1982.

Any vacancy shall be filled by the Governor for the unexpired term.

Each member shall be eligible for reappointment in the discretion

of the Governor.

SEC. 6. Section 19423 of the Business and Professions Code is amended to read·

19423 A person is disqualified from membership on the board if the person, the person's spouse or any dependent child thereof

(a) Holds a financial interest in any horseracing track

(b) Holds a financial interest or position of management with any business entity which conducts parimutuel horseracing.

(c) Holds a financial interest in a management or concession contract with any business entity which conducts parimutuel horseracing.

SEC. 7. Section 19424 5 is added to the Business and Professions Code, to read.

19424.5. In order to permit the full participation of horsemen who may be appointed to the board, the Legislature declares that the appointment of such persons is intended to represent and further the interests of horse owners and breeders pursuant to Section 19401, and that such representation and furtherance will ultimately serve the public interest. Accordingly the Legislature finds racehorse owners and breeders are tantamount to and constitute the public generally within the meaning of Section 87103 of the Government Code

SEC. 8. Section 19426 of the Business and Professions Code is amended to read.

19426 The Governor may remove any board member for incompetence, neglect of duty or corruption upon first giving him a copy of the charges against him and an opportunity to be heard

SEC. 9. Section 19429 of the Business and Professions Code is amended to read:

19429 A person is disqualified from employment by the board if the person, the person's spouse, or any dependent child thereof:

(a) Holds a financial interest in a horserace track.

(b) Holds a financial interest or position of management with an entity that conducts parimutuel horseracing.

(c) Holds a financial interest in a management or concession contract with a business entity that conducts parimutuel horseracing.

SEC. 10. Section 19431 of the Business and Professions Code is amended to read·

19431. The board shall establish and maintain a general office for the transaction of its business in Sacramento. The board may establish any branch office for the transaction of its business at a place to be determined by it, and may hold meetings at any other place within the state when the interests of the public may be better served.

A public record of every vote shall be maintained at the board's general office

At least three members of the board shall concur in the taking of any official action or in the exercise of any of the board's duties, powers, or functions.

SEC. 11 Section 19440 of the Business and Professions Code is

amended to read:

19440. The board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the board shall include, but not be limited to:

(1) Adopting rules and regulations for the protection of the public and the control of horseracing and parimutuel wagering;

(2) Administration and enforcement of all laws, rules and regulations affecting horseracing and parimutuel wagering;

(3) Adjudication of controversies arising from the enforcement of those laws and regulations dealing with horseracing and parimutuel wagering;

(4) Licensing of each racing association and all persons, other than the public at large, who participate in a horserace meeting with parimutuel wagering; and

(5) Allocation of racing dates to qualified associations in the best interests of the people of California in accord with the intent of this chapter.

The board may delegate to stewards such of its powers and duties as is necessary to carry out fully and effectuate the purposes of this chapter.

Commissioners shall personally review hearings of any case referred to the board by the stewards, or appealed to the board from stewards' decisions. If requested by an appellant, the board chairman shall assign two commissioners to hear an appeal at a time and place convenient to the appellant and to the board. Action on such a hearing request must be taken by the board within 30 days.

The board upon due consideration may overrule any steward's decision if a preponderance of evidence indicates:

(a) The stewards mistakenly interpreted the law.

(b) New evidence of a convincing nature is produced.

(c) The best interests of racing and the state may be better served.

However, (a) any decision pertaining to the finish of a race, as used for purposes of parimutuel fund distribution to winning ticketholders, may not be overruled; and (b) any decision pertaining to the distribution of purses may only be changed if a claim is made in writing to the board by one of the involved owners or trainers, and a preponderance of evidence clearly indicates to the board that one or more of the grounds for protest, as outlined in regulations prepared by the board, has been substantiated. The chairman of the board may issue a stay of execution pending appeal from a steward's decision if the facts justify such action.

SEC. 12. Section 19441 of the Business and Professions Code is amended to read:

19441 The commissioners shall direct the operations of the staff in all matters, and on a continuous basis recommend to the Governor and the Legislature any legislative changes deemed needed for better functioning of the horseracing laws.

The board shall annually make a full report to the Governor and

the Legislature of its proceedings for the preceding fiscal year, on or before January 31, and shall embody therein such recommendations as it deems desirable

SEC. 13. Section 19442 of the Business and Professions Code is amended and renumbered to read:

19443. The Attorney General and every district attorney shall enforce this chapter in their capacities as law enforcement officers.

SEC 14. Section 19442 is added to the Business and Professions Code, to read:

19442. The board shall contract with persons licensed as stewards pursuant to Section 19510 to perform the duties of stewards at horseracing meets Contracts shall be upon such terms as the parties may mutually agree upon.

Compensation will be set by the board, commensurate with the responsibilities involved. The board will assess each racing association prior to the start of any race meet for an amount equal to the pay and fringe benefits to be paid to the stewards assigned by the board to the race meet. Such funds must be paid to the board by the associations in equal installments at the end of each week, or partial week of racing The board shall maintain these funds in a separate account, and shall use them for payment of the individual contracts with the stewards Fringe benefits shall include the retirement program presently available to the stewards or an equivalent program developed by the board.

The board shall establish a committee of two commissioners to meet at least quarterly with representatives of the stewards, so that recommendations of the stewards can be discussed as necessary These meetings may be scheduled the same day as regular board meetings or at the convenience of the board.

SEC. 14.5 Section 19510.5 is added to the Business and Professions Code, to read:

19510.5. The board shall require applicants for a license as a steward to pass an examination on matters relating to the duties of stewards. Examinations shall be held at such times and places as may be determined by the board Notice of the time and place of such examinations shall be given as determined by the board.

The board, in conjunction with the National Association of Racing Commissioners, shall prepare both written and oral examinations to be taken by persons applying for qualification as stewards, requesting and taking into consideration suggestions from representatives of horsemen, association management, stewards, and other interested and knowledgeable groups. Separate examinations shall be prepared for harness and running racing. The written examinations may be administered by members of the board staff, but oral examinations shall be conducted by a licensed steward in the presence of at least two board members

The board shall admit to examination any person who is qualified as follows:

(a) Who has not been convicted of a crime involving moral

turpitude or of a felony.

(b) Who has completed an accredited senior high school or its equivalent

(c) Who has been given a physical examination by a licensed physician and surgeon within 60 days prior to the date of application for the steward's examination, indicating 20–20 vision or vision corrected to 20–20, and normal hearing ability.

(d) Who has at least five years experience in the parimutuel horseracing industry as a licensed trainer, jockey, or driver, or who has at least 10 years experience in the California parimutuel horseracing industry as a licensed owner whose experience, knowledge, ability and integrity relative to such industry are known to the board, or who has at least three years experience as a licensed racing official, racing secretary, assistant racing secretary or director of racing, or who has at least one year's experience as a steward at a major non-California parimutuel horseracing track, as defined by the board The experience of the applicant shall be in the same type of racing, either harness or running, as the examination applied for. For the purposes of this section, one year's experience shall mean at least 100 days actually worked within one calendar year

Successful completion of a four-year course at any university or school studying courses acceptable to the board as being directly pertinent to the work of a steward, may be counted as two years experience as a racing official.

Stewards qualified through this section shall form pools from which the board will select the best qualified individuals for contract. Separate pools shall be maintained of stewards who have passed the harness racing examination, and of stewards who have passed the running racing examination.

Stewards appointed to serve at any thoroughbred race meet shall have at least two years experience serving as a steward at a meet or meets where a majority of thoroughbred races were run. Any steward appointed to serve at a quarter horse meet shall have at least two years experience serving as a steward at a meet where at least two quarter horse races were run each day of racing

The board shall establish and administer a continuing training program for stewards.

Any person who has served as a steward in California prior to January 1, 1978, shall be exempt from the requirements of this section

SEC 15 Section 19530 of the Business and Professions Code is amended to read:

19530. The board shall have the authority to allocate racing weeks to an applicant or applicants pursuant to the provisions of this article and Article 6.5 (commencing with Section 19540) and to specify such racing days, dates, and hours for horseracing meetings as will be in the public interest, and will subserve the purposes of this chapter. The decision of the board as to such racing days, dates, and hours shall be subject to change, limitation or restriction only by the board. No

municipality or county shall adopt or enforce any ordinance or regulation which has or may have the effect of directly or indirectly regulating, limiting or restricting the racing days and dates of horseracing meetings.

SEC. 16. Section 19549 of the Business and Professions Code is amended to read:

19549. The maximum number of racing days which may be allocated to the California State Fair and Exposition or California State Exposition and Fair or a county or district agricultural association fair or citrus fair shall be 14 days per year. Such racing days shall be days on which general fair activities are conducted.

SEC. 17. Section 19611.5 is added to the Business and Professions Code, to read.

19611.5. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association other than the California State Fair and Exposition or a district or county fair which conducts a thoroughbred race meeting may deduct from the total amount handled in daily double, quinella, and exacta parimutuel pools up to 3 percent thereof to be distributed as commissions and purses in the following percentage ratios: in 1978, 56 percent as commissions and 44 percent as purses; in 1979, 55 percent as commissions and 45 percent as purses; in 1980, 54 percent as commissions and 46 percent as purses, in 1981, 53 percent as commissions and 47 percent as purses; in 1982, 52 percent as commissions and 48 percent as purses; in 1983, 51 percent as commissions and 49 percent as purses; and in 1984 and thereafter, 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. Such sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all such deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins at races having a total purse value of ten thousand dollars ($10,000) or more.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of such deduction shall not be changed during the course of the meeting.

SEC. 18. Section 19612.1 is added to the Business and Professions Code, to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association other than the California State Fair and Exposition or a district or county fair, or an association

handling less than thirty million dollars ($30,000,000), which conducts a harness or quarter horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40 5 percent

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) Except with the consent of the board the amount of such deduction shall not be changed during the course of the meeting.

SEC 19. Section 19613 of the Business and Professions Code is amended to read.

19613. (a) Except as provided in subdivisions (b) and (c), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association conducting a thoroughbred racing meeting at which the total amount handled in the parimutuel pools relating to such meeting exceeds twenty million dollars ($20,000,000) shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen an amount equivalent to 1 percent of such portion less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools The remainder of such portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen such amount out of such portion as may be determined by the association by agreement or otherwise The remainder of such portion shall be distributed as purses.

SEC. 20. Section 19614.2 is added to the Business and Professions Code, to read.

19614 2 (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California State Fair and Exposition, a district or county fair, or any association which handles less than thirty million dollars ($30,000,000) in the parimutuel pools operated by it during the course of a racing meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution between commissions and purses. Except with the consent of the board the amount of such deduction and its distribution shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses at the California State Fair and Exposit on and at district and county fairs under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. Such sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all such deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins at races having a total purse value of five thousand dollars ($5,000) or more.

SEC. 21 The Legislature finds and declares that the services performed by stewards at horseracing meetings are unique, and could not be performed by civil servants.

CHAPTER 1081

An act to amend and renumber Sections 25600, 25601, 25602, 25603, and 25604 of, and to add Sections 25600, 25605, 25606, 25607, 25608, and 25609 to, the Public Resources Code, relating to energy

[Approved by Governor September 26, 1977 Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 25600 of the Public Resources Code is amended and renumbered to read:

25601. The commission shall develop and coordinate a program of research and development in energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development which are of particular importance to the state, including, but not limited to, all of the following:

(a) Methods of energy conservation specified in Chapter 5 (commencing with Section 25400).

(b) Increased energy use efficiencies of existing thermal electric and hydroelectric powerplants and increased energy efficiencies in designs of thermal electric and hydroelectric powerplants.

(c) Expansion and accelerated development of alternative sources of energy, including geothermal and solar resources, including, but not limited to, participation in large-scale demonstrations of alternative energy systems sited in California in cooperation with federal agencies, regional compacts, other state governments, and other participants. For purposes of this subdivision, "participation" shall be defined as any of the following: (1) direct interest in a

project, (2) research and development to insure acceptable resolution of environment and other impacts of alternative energy systems, (3) research and development to improve siting and permitting methodology for alternative energy systems, (4) experiments utilizing the alternative energy systems, and (5) research and development of appropriate methods to insure the widespread utilization of economically useful alternative energy systems. Large-scale demonstrations of alternative energy systems are exemplified by the $100KW_e$ to $100MW_e$ range demonstrations of solar, wind, and geothermal systems contemplated by federal agencies, regional compacts, other state governments, and other participants.

(d) Improved methods of construction, design, and operation of facilities to protect against seismic hazards.

(e) Improved methods of energy-demand forecasting.

(f) To accomplish the purposes of subdivision (c), an amount not more than one-half of the total state funds appropriated for the solar energy research and development program as proposed in the budget prepared pursuant to Section 25604 shall be allocated for large-scale demonstration of alternative energy systems.

SEC 2. Section 25600 is added to the Public Resources Code, to read:

25600. As used in this chapter:

(a) "Passive thermal system" means a system which utilizes the structural elements of a building and is not augmented by mechanical components to provide for collection, storage and distribution of solar energy or coolness.

(b) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy or coolness

(c) "Solar device" means the equipment associated with the collection, transfer, distribution, storage, and control of solar energy.

(d) "Solar system" means the integrated use of solar devices for the functions of collection, transfer, storage, and distribution of solar energy.

(e) "Standard" means a specification of design, performance, and procedure, or of the instrumentation, equipment, surrounding conditions, and skills required during the conduct of a procedure.

SEC. 3. Section 25601 of the Public Resources Code is amended and renumbered to read:

25602. The commission shall carry out technical assessment studies on all forms of energy and energy-related problems, in order to influence federal research and development priorities and to be informed on future energy options and their impacts, including, in addition to those problems specified in Section 25601, but not limited to, the following:

(a) Advanced nuclear powerplant concepts, fusion, and fuel cells.

(b) Total energy concepts.

(c) New technology related to coastal and offshore siting of facilities.

(d) Expanded use of wastewater as cooling water and other advances in powerplant cooling.

(e) Improved methods of power transmission to permit interstate and interregional transfer and exchange of bulk electric power.

(f) Measures to reduce wasteful and inefficient uses of energy.

(g) Shifts in transportation modes and changes in transportation technology in relation to implications for energy consumption.

(h) Methods of recycling, extraction, processing, fabricating, handling, or disposing of materials, especially materials which require large commitments of energy.

(i) Expanded recycling of materials and its effect on energy consumption.

(j) Implications of government subsidies and taxation and ratesetting policies.

(k) Utilization of waste heat.

(l) Use of hydrogen as an energy form.

(m) Use of agricultural products, municipal wastes, and organic refuse as an energy source.

Such assessments may also be conducted in order to determine which energy systems among competing technologies are most compatible with standards established pursuant to this division.

SEC. 4. Section 25602 of the Public Resources Code is amended and renumbered to read:

25603. For research purposes, the commission shall, in cooperation with other state agencies, participate in the design, construction, and operation of energy-conserving buildings using data developed pursuant to Section 25401, in order to demonstrate the economic and technical feasibility of such designs.

SEC. 5. Section 25603 of the Public Resources Code is amended and renumbered to read:

25604. The commission shall submit to the Governor for inclusion in the state budget for each fiscal year an integrated program of proposed research and development and technical assessment projects set forth on an item-by item basis including the priority items established in Sections 25601, 25602, and 25603. The commission shall describe for each item the objectives and anticipated end product of each project, funding and staff requirements, timing and other information which is necessary to describe the projects adequately. As part of each submission, the commission shall describe the progress of its programs.

SEC. 6 Section 25604 of the Public Resources Code is amended and renumbered to read

25610 For purposes of carrying out the provisions of this chapter, the commission may contract with any person for materials and services that cannot be performed by its staff or other state agencies, and may apply for federal grants or any other funding.

SEC 7. Section 25605 is added to the Public Resources Code, to

read:

25605. On or before November 1, 1978, the commission shall develop and adopt, in cooperation with affected industry and consumer representatives, and after one or more public hearings, regulations governing solar devices. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices. The regulations may include, but need not be limited to, any or all of the following:

(a) Standards for testing, inspection, certification, sizing, and installation of solar devices.

(b) Provisions for the enforcement of the standards. Such provisions may include any or all of the following:

(1) Procedures for the accreditation by the commission of laboratories to test and certify solar devices.

(2) Requirements for onsite inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(3) Requirements for submission to the commission of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices which do not meet minimum requirements for safety and durability as established by the commission.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the commission shall give due consideration to their effect on the cost of purchasing, installing, operating and maintaining solar devices. The commission shall reassess the regulations as often as it deems necessary, based upon the value of the regulations in terms of benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy. The commission may amend or repeal these regulations based on such reassessment.

(d) Under no circumstances may the commission preclude any person from developing, installing, or operating a solar device on his or her own property.

(e) Any violation of any regulation adopted by the commission pursuant to this section may be enjoined in the same manner as is prescribed in Chapter 10 (commencing with Section 25900) of this division for enjoining a violation of this division.

SEC. 8. Section 25606 is added to the Public Resources Code, to read:

25606. No later than December 31, 1978, the commission shall prepare for mass market deployment of solar systems by developing designs and specifications for prototype housing to utilize passive or semipassive thermal systems for heating or heating and cooling purposes.

SEC. 9. Section 25607 is added to the Public Resources Code, to

read:

25607. On or before December 31, 1979, the commission shall develop a manual of design types, costs, performance and evaluation procedures for passive and semipassive thermal systems. The evaluation procedures shall be such as will facilitate the determination of the performance of different passive and semipassive designs in different climatic regions of California. The commission shall also procure thermal performance data from monitoring a number of existing passive or semipassive thermal systems in buildings in California to generate data for the manual

SEC. 10. Section 25608 is added to the Public Resources Code, to read:

25608 The commission shall confer with officials of federal agencies, including the National Aeronautics and Space Administration, the National Bureau of Standards, the Energy Research and Development Administration and the Department of Housing and Urban Development, to coordinate adoption of regulations pursuant to Sections 25603, 25605, and 25606.

SEC. 11. Section 25609 is added to the Public Resources Code, to read:

25609 The commission may, in adopting regulations pursuant to this chapter, specify the date when the regulations shall take effect. The commission may specify different dates for different regulations.

CHAPTER 1082

An act to amend Section 44541.2 of the Health and Safety Code, to amend and repeal Sections 17052.5 and 23601 of the Revenue and Taxation Code, and to repeal Section 4 of Chapter 168 of the Statutes of 1976, relating to solar energy and antipollution facilities.

[Approved by Governor September 26, 1977 Filed with Secretary of State September 26, 1977]

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

SECTION 1. Section 44541.2 of the Health and Safety Code, as added by Chapter 650 of the Statutes of 1977, is amended to read:

44541.2. (a) The authority may separately issue bonds to provide financing for projects to alleviate pollution from facilities for the generation of electrical energy which are or will be owned and operated in this state by a public utility subject to the jurisdiction of the Public Utilities Commission

(b) At such times as the authority desires to issue bonds to separately finance projects pursuant to this section and Section 44532.2, it shall adopt a resolution specifying the total amount of such bonds proposed to be issued. The amount of bonds specified in any such resolution shall not exceed one hundred sixty million dollars

($160,000,000) of new debt. Such resolution shall be submitted to the Legislature and shall be subject to review as provided in Section 44541.

(c) The proceeds of bonds authorized shall be used solely to finance projects specified in this section and shall be issued as otherwise provided in this chapter.

SEC 1.3. Section 17052 5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)), an amount equal to the amount determined in paragraph (2) or (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned and controlled by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned and controlled by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be the greater amount of three thousand dollars ($3,000) or 25 percent of the cost of the solar energy system.

(4) Condominium owners, who install solar energy systems on such California premises which is owned cooperatively by them, shall be eligible to receive the credit provided by this section, in proportion to the number of households served by the system.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis.

(d) In the case of a husband or wife who files a separate return,

the credit may be taken by either or equally divided between them.

(e) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for retirement income provided for in Section 17053, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(f) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(g) The term "solar energy system" means equipment—

(1) Which uses solar energy to heat or cool or produce electricity; and

(2) Which has a useful life of at least three years.

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

(i) On or before January 1, 1978, the Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(j) Subject to the dollar limitations provided in paragraphs (2) and (3) of subdivision (a), if a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided by this section shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

SEC. 1.5. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)), an amount equal to the amount determined in paragraph (2) or (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned and controlled by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned and controlled by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the

credit allowed by this section shall be the greater amount of three thousand dollars ($3,000) or 25 percent of the cost of the solar energy system

(4) Condominium owners, who install solar energy systems on such California premises which is owned cooperatively by them, shall be eligible to receive the credit provided by this section, in proportion to the number of households served by the systems.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis

(d) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for dependent care services expenses provided for in Section 17052.6, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(f) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(g) The term "solar energy system" means equipment—

(1) Which uses solar energy to heat or cool or produce electricity; and

(2) Which has a useful life of at least three years.

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

(i) On or before January 1, 1978, the Energy Resources

Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(j) Subject to the dollar limitations provided in paragraphs (2) and (3) of subdivision (a), if a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided by this section shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

SEC. 2. Section 23601 of the Revenue and Taxation Code is amended to read:

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to the amount determined in paragraph (2) or (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned and controlled by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned and controlled by the taxpayer, other than a single-family dwelling, on which the cost (including installation charges but excluding interest charges) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be the greater amount of three thousand dollars ($3,000) or 25 percent of the cost of the solar energy system.

(4) Condominium owners, who install solar energy systems on such California premises which is owned cooperatively by them, shall be eligible to receive the credit provided by this section, in proportion to the number of households served by the systems.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of

the solar energy system eligibility criteria.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis.

(d) When either (1) the income from sources within this state of two or more corporations which are commonly owned or controlled is determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division, or (2) two or more commonly owned or controlled corporations derive income from sources solely within this state, whose business activities are such that if conducted within and without this state, the income derived from sources within this state would be determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division (hereinafter referred to as "wholly intrastate corporations"), then such corporations shall determine the credit prescribed in subdivision (a) as if such corporations were one corporation. As to wholly intrastate corporations, the amount of the credit prescribed in subdivision (a) shall be prorated among them in the ratio to which the cost of such system to each corporation bears to the total cost of such systems for all corporations.

(e) The term "solar energy system" means equipment—

(1) Which uses solar energy to heat or cool or produce electricity; and

(2) Which has a useful life of at least three years.

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

(g) On or before January 1, 1978, the Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) Subject to the dollar limitations provided in paragraphs (2) and (3) of subdivision (a), if a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided by this section shall be reduced so that the combined

effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

SEC. 3. Section 4 of Chapter 168 of the Statutes of 1976 is repealed.

SEC. 4. The provisions of Sections 1.3, 1.5, and 2 of this act shall have no force or effect in the computation of taxes for taxable years and income years which begin after December 31, 1980; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1981.

Section 1.3 or 1.5 and Section 2 of this act shall remain in effect only until January 1, 1981, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 4.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 302 are both chaptered and amend Section 17052.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 302, that Section 17052.5 of the Revenue and Taxation Code, as amended by Section 13 of Assembly Bill No. 302 be further amended on the operative date of this act in the form set forth in Section 1 5 of this act to incorporate the changes in Section 17052 5 proposed by this bill Therefore, Section 1.5 of this act shall become operative only if Assembly Bill No. 302 is chaptered before this bill and amends Section 17052.5, and in such case Section 1.5 of this act shall become operative on the operative date of this act and Section 1.3 of this act shall not become operative.

SEC. 5. The Franchise Tax Board shall report to the Legislature before January 15, 1980, as to the impact of this act, including the number and amounts of credits, an estimate of the distribution of the credit by income class, distribution of the credit between single-family dwellings and other premises, and the state revenue loss attributable to such credits.

CHAPTER 1083

An act to amend Section 43654 of the Health and Safety Code, and to amend Sections 4000.1 and 4000.2 of the Vehicle Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 43654 of the Health and Safety Code is amended to read:

43654. (a) Except as otherwise provided in subdivision (b), every 1966 through 1970 light-duty motor vehicle, subject to registration in this state, shall be equipped with a certified device to control its exhaust emission of oxides of nitrogen upon initial registration and upon transfer of ownership and registration.

(b) Subdivision (a) shall not apply to a 1966 through 1970 light-duty motor vehicle (1) which is registered to, or subject to registration by, an elderly low-income person, (2) which was purchased from a person other than a dealer or a person holding a retail seller's permit, and (3) which is used principally by or for the benefit of the elderly low-income person; provided, however, that only one such vehicle shall be registered to, or subject to registration by, the elderly low-income person at any one time.

(c) For purposes of subdivision (b), the Department of Motor Vehicles may require satisfactory proof (1) of the age of the transferee of the motor vehicle, (2) of the combined adjusted gross income of the household in which the transferee resides, and (3) that the transferor of the motor vehicle is a person other than a dealer or a person holding a retail seller's permit.

SEC. 2. Section 4000.1 of the Vehicle Code, as amended by Chapter 1206 of the Statutes of 1976, is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b) or (c) of this section, or in subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require, pursuant to this section or regulations of the State Air Resources Board adopted pursuant to Section 43655 of the Health and Safety Code, upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or a certificate of noncompliance, as appropriate.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code shall control.

(b) Subdivision (a) shall not apply to a transfer of ownership and registration when:

(1) The transferor is either the parent, grandparent, child, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to such proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(c) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from the provisions of subdivision (a) as it deems necessary, and shall notify the department of such action.

SEC. 3. Section 4000.1 of the Vehicle Code, as amended by Assembly Bill No. 1163 of the 1977–78 Regular Session, is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b) or (c) of this section or in subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require, pursuant to this section or regulations of the State Air Resources Board adopted pursuant to Section 43655 of the Health and Safety Code, upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or a certificate of noncompliance, as appropriate.

With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, and having a gross vehicle weight of 6,000 pounds or less, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

(b) Subdivision (a) shall not apply to a transfer of ownership and registration when:

(1) The transferor is either the parent, grandparent, child, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to such proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle.

(c) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from the

provisions of subdivision (a) as it deems necessary, and shall notify the department of such action.

SEC. 4. Section 4000.2 of the Vehicle Code, as amended by Chapter 1206 of the Statutes of 1976, is amended to read:

4000.2. Except as otherwise provided in subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon registration of a motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, previously registered outside this state, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of that part, or a certificate of noncompliance, as appropriate.

For the purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

SEC. 5 It is the intent of the Legislature, if this bill and Assembly Bill No. 1163 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 4000.1 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 1163, that Section 4000.1 of the Vehicle Code, as amended by Assembly Bill No. 1163, be further amended on the effective date of this act in the form set forth in Section 3 of this act to incorporate the changes in Section 4000.1 proposed by this bill. Therefore, if this bill and Assembly Bill No 1163 are both chaptered and become effective on or before January 1, 1978, and Assembly Bill No. 1163 is chaptered before this bill and amends Section 4000.1, Section 3 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

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

In order that the amendments to Sections 4000.1 and 4000.2 of the Vehicle Code that were made by Chapter 231 of the Statutes of 1976, but which were superseded by Chapter 1206 of the Statutes of 1976, may be given effect at the earliest possible time, thereby effectuating the intent of the Legislature in enacting Assembly Bill No. 1582 (Chapter 231 of the Statutes of 1976), it is necessary that this act take effect immediately.

CHAPTER 1084

An act to amend Sections 3544, 3544.1, and 3544.5 of the Government Code, relating to public educational employment.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 3544 of the Government Code is amended to read:

3544. (a) An employee organization may become the exclusive representative for the employees of an appropriate unit for purposes of meeting and negotiating by filing a request with a public school employer alleging that a majority of the employees in an appropriate unit wish to be represented by such organization and asking the public school employer to recognize it as the exclusive representative. The request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall be based upon majority support on the basis of current dues deduction authorizations or other evidence such as notarized membership lists, or membership cards, or petitions designating the organization as the exclusive representative of the employees. Notice of any such request shall immediately be posted conspicuously on all employee bulletin boards in each facility of the public school employer in which members of the unit claimed to be appropriate are employed.

(b) The employee organization shall submit proof of majority support to the board. The information submitted to the board shall remain confidential and not be disclosed by the board. The board shall obtain from the employer the information necessary for it to carry out its responsibilities pursuant to this section and shall report to the employee organization and the public school employer as to whether the proof of majority support is adequate.

SEC. 2. Section 3544.1 of the Government Code is amended to read:

3544.1. The public school employer shall grant a request for recognition filed pursuant to Section 3544 unless:

(a) The public school employer desires that representation election be conducted or doubts the appropriateness of a unit. If the public school employer desires a representation election, the question of representation shall be deemed to exist and the public school employer shall notify the board, which shall conduct a representation election pursuant to Section 3544.7, unless subdivision (c) or (d) apply; or

(b) Another employee organization either files with the public school employer a challenge to the appropriateness of the unit or submits a competing claim of representation within 15 workdays of

the posting of notice of the written request. The claim shall be evidenced by current dues deductions authorizations or other evidence such as notarized membership lists, or membership cards, or petitions signed by employees in the unit indicating their desire to be represented by the organization. Such evidence shall be submitted to the board, and shall remain confidential and not be disclosed by the board. The board shall obtain from the employer the information necessary for it to carry out its responsibilities pursuant to this section and shall report to the employee organizations seeking recognition and to the public school employer as to the adequacy of the evidence. If the claim is evidenced by the support of at least 30 percent of the members of an appropriate unit, a question of representation shall be deemed to exist and the board shall conduct a representation election pursuant to Section 3544.7, unless subdivision (c) or (d) of this section apply; or

(c) There is currently in effect a lawful written agreement negotiated by the public school employer and another employee organization covering any employees included in the unit described in the request for recognition, unless the request for recognition is filed less than 120 days, but more than 90 days, prior to the expiration date of the agreement; or

(d) The public school employer has, within the previous 12 months, lawfully recognized another employee organization as the exclusive representative of any employees included in the unit described in the request for recognition.

SEC. 3. Section 3544.5 of the Government Code is amended to read:

3544.5. A petition may be filed with the board, in accordance with its rules and regulations, requesting it to investigate and decide the question of whether employees have selected or wish to select an exclusive representative or to determine the appropriateness of a unit, by:

(a) A public school employer alleging that it doubts the appropriateness of the claimed unit; or

(b) An employee organization alleging that it has filed a request for recognition as an exclusive representative with a public school employer and that the request has been denied or has not been acted upon within 30 days after the filing of the request; or

(c) An employee organization alleging that it has filed a competing claim of representation pursuant to subdivision (b) of Section 3544.1; or

(d) An employee organization alleging that the employees in an appropriate unit no longer desire a particular employee organization as their exclusive representative, provided that such petition is supported by current dues deduction authorizations or other evidence such as notarized membership lists, cards, or petitions from 30 percent of the employees in the negotiating unit indicating support for another organization or lack of support for the incumbent exclusive representative. Such evidence of support shall

be submitted to the board, and shall remain confidential and not be disclosed by the board. The board shall obtain from the employer the information necessary for it to carry out its responsibilities pursuant to this section and shall report to the employee organizations seeking recognition and to the public school employer as to the adequacy of the evidence of support.

CHAPTER 1085

An act to amend Section 1484 of the Health and Safety Code, relating to paramedics.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 1484 of the Health and Safety Code is amended to read:

1484. This article shall remain in effect only until December 31, 1979, and shall have no force or effect after that date.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1086

An act to add Section 10618 to, and to add Article 9 (commencing with Section 10475) to Chapter 8 of Division 9 of, the Health and Safety Code, relating to vital records.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 10618 is added to the Health and Safety Code, to read:

10618. A fee of five dollars ($5) shall be paid to the State Registrar by the applicant for establishment of a new record of birth under the provisions of Article 9 (commencing with Section 10475) of Chapter 8 of this division.

SEC. 2. Article 9 (commencing with Section 10475) is added to Chapter 8 of Division 9 of the Health and Safety Code, to read

Article 9. Revision of Birth Records to Reflect Change of Sex

10475. Whenever a person born in this state has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a new birth certificate may be prepared for such person reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States. A petition for the issuance of a new birth certificate in such cases shall be filed with the superior court of the county where the petitioner resides

10476. (a) The petition shall be accompanied by an affidavit of a physician documenting the sex change, and a certified copy of the court order changing the applicant's name (if applicable).

(b) Such petition shall be heard at the time appointed by the court and objections may be filed by any person who can, in such objections, show to the court good reason against such change of birth certificate. At the hearing, the court may examine on oath the petitioner, and any other person having knowledge of facts relevant to the application. At the conclusion of the hearing the court shall make an order to issue a new certificate, or dismissing the petition, as to the court may seem right and proper.

(c) A certified copy of the decree of the court ordering the new birth certificate, shall within 30 days from the date of such decree, be filed with the State Registrar. Upon receipt thereof together with the fee prescribed by Section 10618, the State Registrar shall establish a new birth certificate for the applicant.

(d) The new birth certificate shall indicate the sex of the registrant as it has been surgically altered and shall reflect any change of name specified in the application if accompanied by a court order, as prescribed by Section 10475. No reference shall be made in the new birth certificate, nor shall its form in any way indicate, that it is not the original birth certificate of the registrant.

10477. In lieu of separate proceedings, a single petition for a change of name and issuance of a new birth certificate reflecting a change of gender may be filed with the superior court. With respect to such a petition, the court shall follow the procedure set forth in Title 8 (commencing with Section 1275) of Part III of the Code of Civil Procedure. A certified copy of the decree of the court issued pursuant to this section shall within 30 days be filed with both the Secretary of State and the State Registrar. Upon its receipt, the State Registrar shall establish a new birth certificate as provided in this article.

10478. The new birth certificate shall supplant any birth certificate previously registered for the applicant and shall be the only birth certificate open to public inspection. The application and supporting

affidavit shall be filed with the original record of birth, which shall remain as a part of the records of the State Registrar. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon written request of the registrant or an order of a court of record.

When a new birth certificate is established under the provisions of this article, the State Registrar shall transmit copies of the newly established birth certificate for filing to the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward such copies of the original certificate to the State Registrar for filing with the original certificate, if it is practical for him to do so. If it is impractical for him to forward the copy to the State Registrar, he shall effectually seal a cover over the copy of the original certificate in such a manner as not to deface or destroy such copy and forward a verified statement of his action to the State Registrar Thereafter the information contained in such record shall be available only upon written request of the registrant or on order of a court of record

10479 The State Registrar shall transmit a certified copy of a birth certificate newly established under this article to the registrant without additional charge.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1087

An act to amend Section 25203 of the Government Code, relating to counties.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 25203 of the Government Code is amended to read:

25203. The board shall direct and control the conduct of litigation in which the county, or any public entity of which the board is the governing body, is a party; by a two-thirds vote of all the members, the board may employ counsel to assist the district attorney, county counsel, or other counsel for the county or entity in the conduct of such actions; provided, however, that the board may authorize county officials, who are not attorneys, to initiate and conduct litigation in small claims court on behalf of the county.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1088

An act to add Section 1016.5 to the Penal Code, relating to pleas.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 1016.5 is added to the Penal Code, to read:

1016.5. (a) Prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall administer the following advisement on the record to the defendant:

If you are not a citizen, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(b) Upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the advisement as described in this section. If, after January 1, 1978, the court fails to advise the defendant as required by this section and the defendant shows that conviction of the offense to which defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement.

(c) With respect to pleas accepted prior to January 1, 1978, it is not the intent of the Legislature that a court's failure to provide the advisement required by subdivision (a) of Section 1016.5 should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid. Nothing in this section, however, shall be deemed to inhibit a court, in the sound exercise of its discretion, from vacating a judgment and permitting a defendant to withdraw a plea.

(d) The Legislature finds and declares that in many instances

involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty or nolo contendere is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the Legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea or plea of nolo contendere be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is also the intent of the Legislature that the court in such cases shall grant the defendant a reasonable amount of time to negotiate with the prosecuting agency in the event the defendant or the defendant's counsel was unaware of the possibility of deportation, exclusion from admission to the United States, or denial of naturalization as a result of conviction. It is further the intent of the Legislature that at the time of the plea no defendant shall be required to disclose his or her legal status to the court.

SEC. 2. It is the intent of the Legislature that this act be deemed null and void if all of the applicable federal laws for which a court advisement is necessary under this act are repealed.

CHAPTER 1089

An act to add Sections 20205.9, 20205.90, 20205.91, 20205.92, 20205.93, and 20205.94 to the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1977. Filed with Secretary of State September 27, 1977.]

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

SECTION 1. Section 20205.9 is added to the Government Code, to read:

20205.9. The board may select, purchase or acquire in the name of the State of California Public Employees' Retirement System, the fee or any lesser interest in real property, improved or unimproved, and may construct or remodel, and equip, an office building, including appropriate satellite structures, in the County of Sacramento, California, for its use and for the use of State Teachers' Retirement System, other state retirement systems, other departments, boards, and agencies of the state, or appropriate private commercial entities as space may be available from time to time. Such office building and satellite structures shall conform to the Capital Master Plan if located

within an area subject to the plan.

(a) In the event that the board acquires bare land, improvements shall be constructed according to plans approved by the State Public Works Board and Department of General Services.

(b) In the event that the board acquires land with improvements thereon, such improvements shall be remodeled or completed in accordance with plans approved by the State Public Works Board and Department of General Services.

(c) In the event that condemnation of the property selected is necessary, the board may elect to deposit such funds as are deemed necessary with the State Treasurer, which funds are appropriated for purchase of the selected property subject to provisions of the Property Acquisition Law.

(d) Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to bidding procedures set forth in the State Contract Act.

SEC. 2. Section 20205 90 is added to the Government Code, to read:

20205.90. The board may contract with the Department of General Services or any other state department for assistance and supervision in the acquisition of real property and the construction thereon of buildings and improvements authorized in this article.

SEC. 3 Section 20205.91 is added to the Government Code, to read:

20205.91. All buildings and improvements constructed by the board under the provisions of this article may contain space in excess of the immediate requirements of the board which, until needed, may be leased by the board at rates which are not less than fair market value and upon such terms and conditions as may be approved by the board; provided, however, that the rental charged shall be at least sufficient to pay a reasonable rate of return to the board of the cost, including interest thereon, of construction and maintenance of such excess space.

The board may contract with the Department of General Services to handle the rentals of any excess space over and above that required by the board and to furnish general supervision and maintenance of buildings and improvements constructed under the provisions of this article.

SEC. 4. Section 20205.92 is added to the Government Code, to read:

20205.92. Any building or improvement constructed by the board under this article shall be subject to the supervision of the board in accordance with rules and regulations established by the board with the assistance of the Department of General Services.

SEC. 5. Section 20205.93 is added to the Government Code, to read:

20205.93. The board shall establish a building account for the transfer of money which is continuously appropriated for such purpose from the Public Employees' Retirement Fund for the cost of the acquisition of real property, the construction or remodeling of buildings and improvements thereon, and the maintenance, repair, and improvement thereof, and for the orderly repayment to the Public Employees' Retirement Fund of such expenditures plus

interest at the aggregate rate of return on investments of the system.

For accounting purposes the board shall pay rental to the building account in an amount sufficient to repay all costs for construction and maintenance of space used by the board plus interest to the Public Employees' Retirement Fund. Other rental received shall be deposited in the building account and disbursed as provided in this section.

The board may contract with the Department of General Services for the purchase of insurance against loss of, or damage to, the property or the loss of use or occupancy of the building, liability insurance and such other insurance as is customarily carried on state office buildings. Premiums for such insurance shall be paid from the building account.

Money in the building account which is in excess of current needs shall be paid into the Public Employees' Retirement Fund monthly The land, building, equipment, and improvements thereon, shall constitute an investment in the Public Employees' Retirement Fund and shall be carried on the books thereof as such in accordance with generally accepted accounting practices.

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

In order that the funds in the building account proposed by this act may become available at the commencement of the 1977–78 fiscal year, this act must take effect immediately.

CHAPTER 1090

An act to add Article 4 (commencing with Section 44100) to Chapter 1 of Part 25 of the Education Code, relating to school employees.

[Approved by Governor September 27, 1977. Filed with Secretary of State September 27, 1977.]

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

SECTION 1. Article 4 (commencing with Section 44100) is added to Chapter 1 of Part 25 of the Education Code, to read:

Article 4. Affirmative Action Employment

44100. The Legislature finds and declares that:

(a) Generally, California school districts employ a disproportionately low number of racial and ethnic minority classified and certificated employees and a disproportionately low number of women and members of racial and ethnic minorities in

administrative positions.

(b) It is educationally sound for the minority student attending a racially impacted school to have available to him the positive image provided by minority classified and certificated employees. It is likewise educationally sound for the child from the majority group to have positive experiences with minority people which can be provided, in part, by having minority classified and certificated employees at schools where the enrollment is largely made up of majority group students. It is also educationally important for students to observe that women as well as men can assume responsible and diverse roles in society.

(c) Past employment practices created artificial barriers and past efforts to promote additional action in the recruitment, employment, and promotion of women and minorities have not resulted in a substantial increase in employment opportunities for such persons.

(d) Lessons concerning democratic principles and the richness which racial diversity brings to our national heritage can be best taught by the presence of staffs of mixed races and ethnic groups working toward a common goal.

It is the intent of the Legislature to establish and maintain a policy of equal opportunity in employment for all persons and to prohibit discrimination based on race, sex, color, religion, age, handicap, ancestry, or national origin in every aspect of personnel policy and practice in employment, development, advancement, and treatment of persons employed in the public school system, and to promote the total realization of equal employment opportunity through a continuing affirmative action employment program.

The Legislature recognizes that it is not enough to proclaim that public employers do not discriminate in employment but that effort must also be made to build a community in which opportunity is equalized. It is the intent of the Legislature to require educational agencies to adopt and implement plans for increasing the numbers of women and minority persons at all levels of responsibility.

44101. For the purposes of this article:

(a) "Affirmative action employment program" means planned activities designed to seek, hire, and promote persons who are underrepresented in the work force compared to their number in the population, including handicapped persons, women, and persons of minority racial and ethnic backgrounds. It is a conscious, deliberate step taken by a hiring authority to assure equal employment opportunity for all staff, both certificated and classified. Such programs require the employer to make additional efforts to recruit, employ, and promote members of groups formerly excluded at the various levels of responsibility who are qualified or may become qualified through appropriate training or experience within a reasonable length of time. Such programs should be designed to remedy the exclusion, whatever its cause. Affirmative action requires imaginative, energetic, and sustained action by each employer to devise recruiting, training, and career advancement

opportunities which will result in an equitable representation of women and minorities in relation to all employees of such employer.

(b) "Goals and timetables" means projected new levels of employment of women and minority racial and ethnic groups to be attained on an annual schedule, given the expected turnover in the work force and the availability of persons who are qualified or may become qualified through appropriate training or experience within a reasonable length of time. Goals are not quotas or rigid proportions. They should relate both to the qualitative and quantitative needs of the employer.

(c) "Public education agency" means the Department of Education, each office of the county superintendent of schools, and the governing board of each school district in California.

44102. Each local public education agency shall submit, not later than January 1, 1979, to the Department of Education an affirmation of compliance with the provisions of this article. The affirmative action employment program shall have goals and timetables for its implementation. The plan shall be a public record within the meaning of the California Public Records Act.

44103. Each county superintendent of schools shall render assistance in developing and implementing affirmative action employment programs to elementary school districts under his jurisdiction which had fewer than 901 units of average daily attendance during the preceding fiscal year, and to high school districts under his jurisdiction which had fewer than 301 units of average daily attendance during the preceding fiscal year, and to unified school districts under his jurisdiction which had fewer than 1,501 units of average daily attendance during the preceding fiscal year.

44104. The Department of Education, out of funds appropriated for such purposes, (1) shall provide assistance to local educational agencies in adopting and maintaining high-quality affirmative action programs; (2) report to the Legislature, by July 1, 1979, regarding the number of districts which have adopted and are maintaining affirmative action programs, including the effectiveness of such programs in meeting the intent of this article; and (3) develop and disseminate to public education agencies guidelines to assist such agencies in developing and implementing affirmative action employment programs.

44105. The State Board of Education shall adopt all necessary rules and regulations to carry out the intent of this article.

SEC. 2. This act is substantially a codification of regulations adopted by the State Board of Education which require local educational agencies to have developed an affirmative action employment program by January 1, 1976. Since the affirmative action programs mandated by this act are presently required of school districts, it is the intent of the Legislature not to reimburse local educational agencies for program expenditures required prior to the enactment of this act.

Therefore, notwithstanding Sections 2231 and 2234 of the Revenue and Taxation Code, or any provision to the contrary contained in Senate Bill 90 of the 1977 Regular Session, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because there are no new duties, obligations, or responsibilities imposed on local educational agencies by this act.

CHAPTER 1091

An act to amend Sections 1705, 1706, and 1731 of, and to add Section 1702.1 to, the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 27, 1977. Filed with Secretary of State September 27, 1977.]

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

SECTION 1. Section 1702.1 is added to the Public Utilities Code, to read:

1702.1. (a) The commission shall entertain complaints against any electrical, gas, water, heat, or telephone company under Sections 734, 735, and 736 where the amount of money claimed is seven hundred fifty dollars ($750) or less by an expedited complaint procedure; provided, however, when the public interest so requires, the commission or presiding officer may at any time prior to the filing of a decision terminate the expedited complaint procedure and recalendar the matter for hearing under the commission's regular procedure.

(b) No attorney at law shall represent any party other than himself under the expedited complaint procedure.

(c) No pleading other than the complaint and answer shall be necessary. A hearing without a reporter shall be held within 30 days after the answer is filed.

(d) The parties shall have the right to file applications for rehearing pursuant to Section 1731. If the commission grants an application for rehearing, the rehearing shall be conducted under the commission's regular hearing procedure.

SEC. 2. Section 1705 of the Public Utilities Code is amended to read:

1705. At the time fixed for any hearing before the commission or a commissioner, or the time to which the hearing has been continued, the complainant and the corporation or person complained of, and such corporations or persons as the commission allows to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. After the conclusion of the

hearing, the commission shall make and file its order, containing its decision. Except for decisions filed after hearings held under Section 1702.1, the decision shall contain, separately stated, findings of fact and conclusions of law by the commission on all issues material to the order or decision. A copy of such order, certified under the seal of the commission, shall be served upon the corporation or person complained of, or his or its attorney. The order shall, of its own force, take effect and become operative 20 days after the service thereof except as otherwise provided by the commission, and shall continue in force either for a period designated in it or until changed or abrogated by the commission. If the commission believes that an order cannot be complied with within 20 days, it may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may on application and for good cause shown, extend the time for compliance fixed in its order Decisions rendered in response to complaints filed and processed pursuant to Section 1702.1 shall not be considered as precedent or binding on the commission or the courts of this state

SEC. 3 Section 1706 of the Public Utilities Code is amended to read·

1706. A complete record of all proceedings and testimony before the commission or any commissioner on any formal hearing shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney In case of an action to review any order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced, and of the pleadings, record, and proceedings in the cause, shall constitute the record of the commission, but if the petitioner and the commission stipulate that certain questions alone and a specified portion only of the evidence shall be certified to the Supreme Court for its judgment, such stipulation and the questions and the evidence therein specified shall constitute the record on review. The provisions of this section shall not apply to hearings held pursuant to Section 1702.1.

SEC. 4. Section 1731 of the Public Utilities Code is amended to read:

1731. After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed application to the commission for a rehearing before the effective date of the order or decision, or, if the commission fixes a date earlier than the 20th day after issuance as the effective date of the order or

decision, unless the corporation or person has filed such application for rehearing before the 30th day after the date of issuance, or before the 10th day after the date of issuance in the case of an order issued pursuant to to Article 5 (commencing with Section 816) and Article 6 (commencing with Section 851) of Chapter 4 of this division relating to security transactions and the transfer or encumbrance of utility property.

CHAPTER 1092

An act to amend Section 23961 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1 Section 23961 of the Business and Professions Code is amended to read:

23961. (a) If, at the conclusion of the period prescribed by the department for the filing of applications for issuance or transfer of onsale general licenses or offsale general licenses in any county in its notice of intention to receive applications therefor published pursuant to Sections 23821 and 24070, the department finds that there are more applicants for the particular type of license than there are licenses available for issuance or transfer under Sections 23821 and 24070, the department shall, within 60 days following the conclusion of said period, conduct a drawing to determine the priority in which all of such applications filed with it shall be considered No more than one such drawing shall be made in any county in any one year, and no person will be entitled to more than one opportunity to participate in such a drawing in any county with respect to an application for issuance or transfer of any one type of license. The number drawn by any applicant shall indicate the priority to be given to the consideration of his application but shall not insure the issuance of a license by the department.

(b) If a drawing is not conducted as provided in subdivision (a) of this section, applications for issuance of original onsale general licenses and offsale general licenses in a county or transfer of such licenses into such county shall be made and considered as otherwise provided in this article.

(c) No person shall be qualified to participate in such a drawing unless such applicant is a resident of California for at least 90 days prior to the drawing. Prior to the issuance of any license, pursuant to such a drawing, the applicant shall present proof of such residency status. A corporation incorporated in a state other than California, but registered with the Secretary of State to do business in California

for 90 days, shall be deemed to have satisfied the residency requirement for the purpose of this section.

(d) The department shall advertise, in connection with a drawing conducted pursuant to this section, that participation in such a drawing is available only to California residents.

CHAPTER 1093

An act to amend Sections 12403.7 and 12435 of the Penal Code, relating to tear gas weapons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 12403.7 of the Penal Code is amended to read:

12403.7. (a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following requirements.

(1) No person convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons

(3) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(4) (i) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice.

(ii) The department, with the cooperation of the State Department of Health, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used pursuant to this section.

(iii) The regulations of the department shall include a requirement that every mace container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under California law. The contents are dangerous—use with

care."

(5) (i) No person shall purchase, possess, or use any tear gas or any tear gas weapon who has not completed a course certified by the Department of Justice in the use of tear gas and tear gas weapons pursuant to which a card is issued identifying the person who has completed such a course. Such a course shall be taken in any training institution certified by the Commission on Peace Officer Standards and Training to offer tear gas training. Such a training institution is authorized to charge a fee covering the actual cost of such training.

(ii) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(6) No person shall purchase, possess or use any tear gas or tear gas weapon if such person has not been issued a permit by the police chief or sheriff having jurisdiction over the person's place of legal residence. The police chief or sheriff shall issue a permit to any person who has completed the course of training specified in paragraph (5), and who meets the following criteria:

(i) Is not a minor

(ii) Has not been convicted of a felony.

(iii) Is not addicted to any narcotic drug.

(iv) Has not been convicted of any crime involving assault.

(v) Has not been convicted of misuse of tear gas under paragraph (8).

(7) If an application for a permit is denied, the police chief or sheriff denying such permit shall inform the applicant in writing of the reason for such denial.

The police chief or sheriff may charge a fee covering the actual cost of processing the application which shall also include the fee charged by the Department of Justice for noncriminal fingerprint card processing. The valid permit shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present an identifying permit is a violation of Section 12420.

(8) Any person who has a valid permit, who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by fine not to exceed one thousand dollars ($1,000) or by both such fine and imprisonment.

(9) No person shall purchase, possess, or use any tear gas or tear gas weapon pursuant to this section prior to July 1, 1977.

(b) Such permit shall be valid for a period of seven years unless revoked because the person no longer meets the criteria specified under paragraph (6), and shall be nontransferable

Applications and permits shall be uniform throughout the state on

forms prescribed by the Department of Justice.

The Department of Justice may adopt and promulgate such regulations concerning the purchase and disposal of self-defense tear gas weapons as are necessary to insure the safe use and possession of such tear gas weapons by permit holders.

SEC. 2. Section 12435 of the Penal Code is amended to read:

12435. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail at the place specified in the license of tear gas or tear gas weapons, and to permit the installation and maintenance of protective systems involving the use of tear gas or tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) The business shall be carried on only in the building designated in the license.

(b) The license or certified copy thereof shall be displayed on the premises in a place where it may easily be read.

(c) No tear gas or tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter. No protective system involving the use of tear gas or tear gas weapons shall be installed nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A complete record shall be kept of sales made under the authority of the license, showing the name and address of the purchaser, the quantity and description of the articles purchased, together with the serial number, the number and date of issue of the purchaser's permit, and the signature of the purchaser or purchasing agent. No sale shall be made unless the permit authorizing possession and transportation of tear gas or tear gas weapons is displayed to the seller and the information required by this section is copied therefrom. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General

(e) Each applicant for the tear gas sales license described in this section shall pay at the time of filing his application for such license a fee determined by the Department of Justice, not to exceed fifty dollars ($50) for an initial application and twenty-five dollars ($25) for an application to renew an existing license.

(f) All fees received by the department under this section are hereby appropriated without regard to fiscal years for the support of the Department of Justice in addition to such other funds as may be appropriated therefor by the Legislature.

SEC. 3. This act shall become operative on the effective date of this act or July 1, 1977, whichever occurs later.

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

immediate effect. The facts constituting such necessity are:

This bill makes changes in provisions of law scheduled to become effective July 1, 1977.

CHAPTER 1094

An act to amend Section 987.02 of, and to add Section 987.721 to the Military and Veterans Code, relating to veterans.

[Approved by Governor September 27, 1977. Filed with Secretary of State September 27, 1977.]

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

SECTION 1. Section 987.02 of the Military and Veterans Code is amended to read:

987.02. (a) Notwithstanding Section 987.01, upon the dissolution of marriage or legal separation of a veteran contract purchaser and the veteran's spouse, an assignment may be made in favor of the nonveteran former spouse at the same rate of interest and upon the same terms and conditions as are provided to veteran purchasers, provided the veteran's entire beneficial interest is transferred to the spouse and provided there are dependent children of the veteran occupying the property and the spouse agrees to: (1) actually reside in the home and (2) continue to make the payments in the same amount required by the purchase contract. For the purposes of this subdivision, any child of the veteran who is legally adopted or who acquires a separate domicile or marries shall not be considered a dependent child.

(b) Should the veteran retain entire beneficial interest in the property after dissolution or legal separation, the veteran may continue as purchaser provided either the veteran or the former spouse continues to occupy the property.

SEC. 2. Section 987.721 is added to the Military and Veterans Code, to read:

987.721. (a) Notwithstanding Section 987.72, upon the dissolution of marriage or legal separation of a veteran contract purchaser and the veteran's spouse, an assignment may be made in favor of the nonveteran former spouse at the same rate of interest and upon the same terms and conditions as are provided to veteran purchasers provided the veteran's entire beneficial interest is transferred to the spouse and provided there are one or more dependent children occupying the property and the spouse agrees to: (1) actually reside in the home; and (2) continue to make the payments in the same amount required by the purchase contract. For purposes of this subdivision, any child of the veteran who is legally adopted or who acquires a separate domicile or marries shall not be considered a dependent child.

(b) Should the veteran retain entire beneficial interest in the property after dissolution or legal separation, the veteran may continue as purchaser provided either the veteran or the former spouse continues to occupy the property.

SEC. 3. It is the intent of the Legislature that the extension of the Veterans' Farm and Home Purchase Acts of 1943 and 1974 to dependent children of veterans provides benefits accruing to veterans and is therefore consistent with the objectives and purposes of those acts.

CHAPTER 1095

An act to amend Sections 84102 and 84208 of, to add Section 81011.5 to, and to repeal Chapter 5 (commencing with Section 85100) of Title 9 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 81011.5 is added to the Government Code, to read:

81011.5. Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county clerk, nor any additional information regarding a signer other than the information required to be written by the signer.

SEC. 2. Section 84102 of the Government Code is amended to read:

84102. The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee;

(b) The name, street address and telephone number of each person, if any, with which the committee is affiliated or connected;

(c) The full name, street address and telephone number, if any, of the treasurer and other principal officers;

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation;

(e) A statement whether the committee is independent or

controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly;

(f) The disposition of surplus funds which will be made in the event of dissolution;

(g) Such other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

SEC. 3. Section 84208 of the Government Code is amended to read·

84208. When the Secretary of State receives any campaign statement filed pursuant to the Federal Election Campaign Act, (2 U.S.C.A. Section 431 et seq.) the Secretary of State shall send a copy of the Statement to the following officers:

(a) Statements of candidates for President, Vice President or United States Senator and committees supporting such candidates—one copy with the Registrar-Recorder of Los Angeles County and one copy with the clerk of the City and County of San Francisco;

(b) Statements of candidates for United States Representative in Congress and committees supporting such candidates—one copy with the clerk of the largest county by population which in whole or in part is included in the election district which the candidate or any of the candidates seek nomination or election and one copy with the clerk of the county within which the candidate resides or in which the committee is domiciled, provided that if the committee is not domiciled in California the statement shall be sent to the Registrar-Recorder of Los Angeles County. No more than one copy of each statement need be filed with the clerk of any county.

SEC. 4 Chapter 5 (commencing with Section 85100) of Title 9 of the Government Code is repealed.

SEC. 5. No other appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC 6. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1096

An act to add Article 5.6 (commencing with Section 29145) to Chapter 1 of Division 13 of the Food and Agricultural Code, relating to bees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1977. Filed with Secretary of State September 27, 1977.]

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

SECTION 1. Article 5.6 (commencing with Section 29145) is added to Chapter 1 of Division 13 of the Food and Agricultural Code, to read:

Article 5.6. Use of Pesticides

29145. The Legislature hereby finds and declares that bees perform a valuable service to agriculture in this state.

The Legislature further finds and declares that the necessary application of certain pesticides to blossoming plants poses a potential hazard to bees.

The Legislature further finds and declares that the use of pesticides is necessary to the protection of agricultural crops.

The Legislature further finds and declares that certain factors, including, but not limited to, the time of application, the type of pesticides used, the type of blossoming plant involved, the proximity of the apiaries, and the ability to locate and notify the owners of the apiaries involved directly affect the extent of the harm to bees resulting from pesticides.

29145.1. The director shall adopt the regulations which the director, in the sound exercise of discretion, deems necessary and proper to minimize the hazard to bees, while still providing for the reasonable and necessary application of pesticides toxic to bees to blossoming plants.

(a) Any regulations adopted pursuant to this section shall include provisions for the mandatory notice of movement of apiaries, including notice of movement of any relocation thereof.

(b) If regulations are adopted under subdivision (a), the director may also adopt regulations providing for timely notification of apiary owners of proposed pesticide applications.

(c) If regulations are adopted under subdivisions (a) and (b), the director may also adopt regulations on the limitation of pesticides used.

(d) If regulations are adopted pursuant to subdivisions (a), (b) and (c), the director may also adopt regulations providing limitations on the time and method of application of pesticides.

(e) If regulations are adopted pursuant to subdivisions (a), (b), (c) and (d), the director may adopt such other regulations as he deems necessary.

(f) Regulations adopted pursuant to this section may be made applicable to the entire state or only portions thereof, or to the use of pesticides toxic to bees on only specific blossoming plants.

(g) The regulations adopted pursuant to subdivisions (c) and (d) shall include conditions wherein such regulations are not applicable if the bees are not removed after the notification pursuant to

subdivision (b). Failure of a beekeeper to remove hives from a specific location, except during specific periods of time, as provided in subdivisions (c) and (d), shall not prevent the application of pesticides.

29145.2. Any person who violates any regulation adopted pursuant to this article or who violates any provisions of Article 9 (commencing with Section 29241) shall be subject to a civil penalty of not more than five hundred dollars ($500) for each day a violation continues in addition to any other penalty provided for by law.

29145.3. The provisions of this chapter may be enforced by the department or county agricultural commissioners pursuant to Section 7.

29145.4. The director shall annually review any regulations adopted pursuant to this article, commencing one year after the date of adoption of any initial regulations pursuant to this article

During the review of regulations required by this section, the director shall consult and confer with the affected industries, the county agricultural commissioners, and the general public.

29145 5. This article shall remain in effect only until January 1, 1981, and on that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for regulations to be effective for the 1978 bloom period, it is necessary that the Department of Food and Agriculture commence drafting such regulations prior to that date.

CHAPTER 1097

An act to add Article 14.5 (commencing with Section 429.35) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Article 14.5 (commencing with Section 429.35) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read·

Article 14.5. Immunization Reactions

429.35. It is the intent of the Legislature to provide for care, including medical, institutional, supportive, and rehabilitative care,

necessitated because of severe adverse reaction to any immunization required by state law to be administered to children under 18 years of age.

As used in this article, a severe adverse reaction is one which manifests itself not more than 30 days after the immunization and requires extensive medical care, as defined by regulation of the department.

Medical expenses shall be reimbursed by the state department in an amount not to exceed twenty-five thousand dollars ($25,000).

Eligibility for reimbursement under this section shall be limited to persons requiring extensive medical care, as defined by the state department pursuant to this section. Such reimbursement shall be made without regard to ability to pay and neither the parents nor the estates of such persons shall be liable for repayment to the state of any portion of the amounts reimbursed pursuant to this article.

The state department shall, by regulation, establish procedures for processing claims pursuant to this section.

Whenever reimbursement is provided for medical expenses under this article, the state shall be subrogated to the rights of the person receiving reimbursement of medical expenses for any amounts due to or recoverable by such person from third parties. The subrogation shall be for an amount equal to any claim reimbursed under this article.

There is hereby created in the State Treasury the Immunization Adverse Reaction Fund, which shall be administered by the State Department of Health and is appropriated without regard to fiscal years. Reimbursements made pursuant to this article shall be made from the Immunization Adverse Reaction Fund.

429.36. No person shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if such immunization is required by state law and the act or omission does not constitute willful misconduct or gross negligence.

SEC. 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Immunization Adverse Reaction Fund for the purposes of Article 14.5 (commencing with Section 429.35) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

CHAPTER 1098

An act to amend Sections 2176, 2176.5, 2544, and 2546 of the Streets and Highways Code, and to amend Section 4 of Chapter 1130 of the Statutes of 1975, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 2176 of the Streets and Highways Code is amended to read:

2176. From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency may undertake a program to provide express bus service between Stockton and a station of the San Francisco Bay Area Rapid Transit District selected by the secretary and the district or between Stockton and Sacramento. Such service shall be provided by operators, as defined in Section 99210 of the Public Utilities Code, or by passenger stage corporations, as defined in Section 226 of the Public Utilities Code.

SEC 2. Section 2176.5 of the Streets and Highways Code is amended to read:

2176 5 From funds appropriated for such purposes, the Secretary of the Business and Transportation Agency may undertake the construction of intermodal transfer facilities located in conjunction with other rail and bus facilities in communities between Stockton and communities in the San Francisco Bay area or between Stockton and Sacramento

SEC. 3. Section 2544 of the Streets and Highways Code is amended to read:

2544. The department shall prepare and submit to the Legislature not later than July 1, 1976, a priority list of abandoned railroad lines having rights-of-way that may be developed for public transportation uses The department shall prepare and submit to the Legislature a revised priority list by July 1, 1978, and by July 1st of each year thereafter.

In preparing the list, the department shall specifically consider the studies conducted by the State Transportation Board pursuant to Section 13990.10 of the Government Code and the State Rail Plan, if Senate Bill No. 416 of the 1977–78 Regular Session of the Legislature is enacted to add Article 9 (commencing with Section 7700) to Chapter 1 of Division 4 of the Public Utilities Code, and shall also consult with any city, county, transit district, or regional transportation planning entity within whose boundaries such abandoned railroad lines are located

The department may consider contributions by local agencies toward the purchase of such rights-of-way as a factor in ranking the rights-of-way on the priority list.

SEC. 4. Section 2546 of the Streets and Highways Code is amended to read.

2546. With money made available for such purpose, the department may acquire any of the rights-of-way included in the priority list prepared pursuant to Section 2544 and shall offer such property to all cities, counties, and transit districts within whose jurisdiction such property is located for development for public

transportation purposes. If such public entities indicate an intent to develop such property, the department shall enter into an agreement with them providing for the conveyance of the property for the development of the public transportation use and for such other matters as may be agreed to. If no agreement is reached within three years of the acquisition of the property by the department, such property shall be sold to the highest bidder and the money received shall be deposited in the Abandoned Railroad Account. The department shall acquire the properties in sequence as listed in the priority list unless, for a particular property, the department reasonably determines that (1) the railroad owner is seeking an unreasonably high price for the property, (2) there does not appear to be a public entity willing to enter into an agreement pursuant to this section to develop the property, or (3) the price of the property exceeds the amount of funds available in the Abandoned Railroad Account in the State Transportation Fund.

SEC. 5. Section 4 of Chapter 1130 of the Statutes of 1975 is amended to read:

Sec. 4. (a) For the 1976–77 to 1978–79 fiscal years, inclusive, three million dollars ($3,000,000) shall be allocated by the Secretary of the Business and Transportation Agency to the Department of Transportation to undertake a program of projects for the extension of intercity passenger rail services provided by the National Rail Passenger Corporation (Amtrak) under Section 403(b) of the Rail Passenger Service Act of 1970 or the upgrading of other commuter rail services or to provide feeder services to such rail services.

(b) Prior to commencing any such project, the department shall enter into an agreement with any city or county that desires to participate in the project. The agreement shall set forth the operational and financial terms and conditions under which the project shall be carried out.

(c) Except for projects that connect urbanized areas with populations of more than 500,000, the state's contribution to the project shall not exceed one-half of the funds needed to secure such services from Amtrak or the upgrading of other commuter rail services or to provide such feeder services. The funding provided by participating counties and cities may include funds derived from any source, including funds made available pursuant to Section 99233.9 and subdivision (b) of Section 99400 of the Public Utilities Code.

SEC. 5.5. Section 4 of Chapter 1130 of the Statutes of 1975, as amended by Section 2 of Senate Bill No. 429 of the 1977–78 Regular Session, is amended to read:

Sec. 4 (a) For the 1976–77 to 1978–79 fiscal years, inclusive, three million dollars ($3,000,000) shall be allocated by the Secretary of the Business and Transportation Agency to the Department of Transportation for the purpose of undertaking a program of projects for the extension of intercity rail passenger services provided by the National Rail Passenger Corporation (Amtrak) under Section 403 (b) of the Rail Passenger Service Act of 1970 (45 U.S.C., Sec. 563 (b))

or the upgrading of other commuter rail services or to provide feeder services to such rail services.

(b) Prior to commencing any such project, the department shall enter into an agreement with any city or county that desires to participate in the project. The agreement shall set forth the operational and financial terms and conditions under which the project shall be carried out. The funding provided by any participating city or county may consist of funds derived from any source, including funds made available pursuant to Section 99233.9 and subdivision (b) of Section 99400 of the Public Utilities Code.

SEC. 6. From funds deposited in the Transportation Planning and Research Account in the State Transportation Fund pursuant to subdivision (a) of Section 7102 of the Revenue and Taxation Code, the sum of five million dollars ($5,000,000) is hereby appropriated, without regard to fiscal years, as follows:

(a) Three million dollars ($3,000,000) for transfer by the Controller to the Abandoned Railroad Account in the State Transportation Fund.

(b) One million five hundred thousand dollars ($1,500,000) to the Secretary of the Business and Transportation Agency for purposes of Section 4 of Chapter 1130 of the Statutes of 1975, which amount shall be deemed an expenditure for purposes of Section 99313 of the Public Utilities Code.

(c) Five hundred thousand dollars ($500,000) to the San Francisco Bay Area Transportation Terminal Authority for planning and feasibility studies, which amount shall be deemed an expenditure for purposes of Section 99315 of the Public Utilities Code

SEC. 7 It is the intent of the Legislature, if this bill and Senate Bill No 429 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 4 of Chapter 1130 of the Statutes of 1975, and this bill is chaptered after Senate Bill No. 429, that Section 4 of Chapter 1130 of the Statutes of 1975, as amended by Section 2 of Senate Bill No 429 be further amended on the effective date of this act in the form set forth in Section 5.5 of this act to incorporate the changes in Section 5 proposed by this bill. Therefore, Section 5.5 of this act shall become operative only if this bill and Senate Bill No 429 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 4 of Chapter 1130 of the Statutes of 1975, and this bill is chaptered after Senate Bill No. 429, in which case Section 5 5 of this act shall become operative on the effective date of this act and Section 5 of this act shall not become operative

CHAPTER 1099

An act to amend Sections 11552.5, 11555, 11556, and 12500 of, and to add Section 11552.6 to, and to add and repeal Section 11570 of, the Government Code, relating to salaries of public officers.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

I am deleting Section 6 (proposed Government Code Section 11570) from Senate Bill No 884 It is not needed

With the deletion of the appropriation language contained in this bill, I approve Senate Bill No 884

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 11552.5 of the Government Code is amended to read:

11552.5. Effective January 1. 1979, an annual salary of forty-two thousand five hundred dollars ($42,500) shall be paid to each of the following:

(a) Lieutenant Governor
(b) Secretary of State
(c) State Controller
(d) State Treasurer
(e) Superintendent of Public Instruction.

SEC. 2. Section 11552.6 is added to the Government Code, to read:

11552.6. An annual salary of thirty-eight thousand five hundred dollars ($38,500) shall be paid to the chairman and an annual salary of thirty-eight thousand dollars ($38,000) shall be paid to the members of the Board of Equalization.

SEC 3. Section 11555 of the Government Code is amended to read:

11555. An annual salary of twenty-six thousand two hundred fifty dollars ($26,250) shall be paid to the following:

(a) Chairman of the Community Release Board
(b) Chairman of the State Water Resources Control Board
(c) Chairman of the Youth Authority Board.

SEC. 4. Section 11556 of the Government Code is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

(a) Director of Navigation and Ocean Development
(b) Director, Office of Emergency Services
(c) Members of the Community Release Board
(d) Members of the State Water Resources Control Board
(e) Members of the Youth Authority Board
(f) State Fire Marshal

SEC. 4.5. Section 11556 of the Government Code is amended to

read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

(a) Director of Navigation and Ocean Development

(b) Director, Office of Emergency Services

(c) Members of the Community Release Board

(d) Members of the State Water Resources Control Board

(e) Members of the Youth Authority Board

SEC. 5. Section 12500 of the Government Code is amended to read:

12500. Effective January 1, 1979, the annual salary of the Attorney General is forty-seven thousand five hundred dollars ($47,500). The annual salary of the Attorney General includes all services rendered ex officio as member of any board or commission.

SEC. 6. Section 11570 is added to the Government Code, to read:

11570. Notwithstanding the foregoing provisions of this chapter or any statute specifying the salary to be paid to the Governor, Lieutenant Governor, Secretary of State, State Controller, State Treasurer, Superintendent of Public Instruction, and the Attorney General, in any fiscal year for which the Legislature appropriates additional funds to augment the salaries paid to such state officers, each such statutory salary for such fiscal year shall be the amount so specified plus the percentage by which the figure representing the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations has increased in the previous calendar year but not to exceed 5 percent. If any constitutional provision prevents such increase during the term of office of a position, the increase shall not become operative as to such position before the commencement of the next succeeding term of office.

Any officer whose salary is eligible for an increase under this section may refuse all or any part of such increase by submitting a written notification thereof to the State Controller.

The provisions of this section shall remain in effect only until December 31, 1982, and as of such date are repealed, unless a later enacted statute, which is chaptered before December 31, 1982, deletes or extends such date. However, the repeal of this section shall not be construed to decrease the salary receivable on the date of such repeal.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 400 are both chaptered and become effective January 1, 1978, both bills amend Section 11556 of the Government Code, and this bill is chaptered after Senate Bill No. 400, that the amendments to Section 11556 proposed by both bills be given effect and incorporated in Section 11556 in the form set forth in Section 4.5 of this act. Therefore, Section 4.5 of this act shall become operative only if this bill and Senate Bill No. 400 are both chaptered and become effective January 1, 1978, both amend Section 11556, and this bill is chaptered after Senate Bill No. 400, in which case Section 4 of this act shall not

become operative.

CHAPTER 1100

An act to add and repeal Sections 17052.6 and 23602 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 17052.6 is added to the Revenue and Taxation Code, to read:

17052.6. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)) an amount equal to 10 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the period commencing January 1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars ($500).

(b) The credit for such cost shall be in addition to any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any equipment for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of credit, whichever results in the lesser basis.

(d) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) For the purposes of this section:

(1) The term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for retirement income provided for in Section 17053, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001)

(2) "Agricultural land" means any land used for the production of food or fiber.

(f) The tax credit provided by this section shall not apply to trusts

or estates subject to tax under this law.

(g) The credit allowed by this section shall be allowed only with regard to the installation of water application or distribution equipment on agricultural land used in a trade or business for the production of farm income.

(h) The tax credit provided by this section shall apply only to a taxpayer (1) whose average gross income from farming in the taxable year and the immediately preceding two taxable years is at least 75 percent of the average total gross income from all sources for such years, and (2) whose adjusted gross income in the taxable year is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

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

(j) This section shall be in effect with respect to taxable years ending on or before December 31, 1980, and as of December 31, 1980, is repealed unless a later enacted statute which is chaptered before December 31, 1980, deletes or extends such date.

SEC. 2. Section 23602 is added to the Revenue and Taxation Code, to read:

23602. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the costs (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to, drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the period commencing January 1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars ($500).

(b) The credit for such cost shall be in addition to any deduction under this part to which the taxpayer otherwise may be entitled, if any

(c) The basis of any equipment for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis.

(d) When either (1) the income from sources within this state of two or more corporations which are commonly owned or controlled is determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division, or (2) two or more commonly owned or controlled corporations derive income from sources solely within this

state, whose business activities are such that if conducted within and without this state, the income derived from sources within this state would be determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division (hereinafter referred to as "wholly intrastate corporations"), then such corporations shall determine the credit prescribed in subdivision (a) as if such corporations were one corporation. As to wholly intrastate corporations, the amount of the credit prescribed in subdivision (a) shall be prorated among them in the ratio to which the cost of such equipment to each corporation bears to the total cost of such equipment for all corporations.

(e) The credit allowed by this section shall be allowed only with regard to the installation of water application or distribution equipment on agricultural land used in a business for the production of farm income.

(f) The tax credit provided by this section shall apply only to a taxpayer (1) whose average gross income from farming in the income year and immediately preceding two income years is at least 75 percent of the average total gross income from all sources for such years, and (2) whose net income in the income year is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

(g) For the purpose of this section, the term "agricultural land" means any land used for the production of food or fiber.

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

(i) This section shall be in effect with respect to income years ending on or before December 31, 1980, and as of December 31, 1980, is repealed unless a later enacted statute which is chaptered before December 31, 1980, deletes or extends such date.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the operative effect of the provisions of this act shall be as follows:

(a) Section 1 of this act shall be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, Section 1 of this act shall apply in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date.

(b) Section 2 of this act shall be applied in the computation of taxes for income years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, Section 2 of this act shall apply in the computation of taxes for income years beginning on or after the first

day of the calendar year following the effective date.

CHAPTER 1101

An act to add Section 20054 to the Water Code, relating to water projects.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 20054 is added to the Water Code, to read:

20054. Notwithstanding any other provision of law, where an improvement district of any district, prior to January 1, 1972, sold bonds for sewer purposes, where such bonds were approved as a legal investment for any trust funds, as well as funds of any insurance companies, commercial and saving banks, as well as trust companies and state school funds pursuant to this division, and where the purpose for which such bonds were approved for certification and sale was consistent with previously existing industrial or commercial plans or zoning ordinances over the property within such improvement district of any district, lands, within such improvement district planned and zoned for industrial or commercial uses, shall be deemed committed to such uses. No legal action brought subsequent to such sale and approval may seek, as a remedy, the invalidation of local plans, zoning, subsequent development approvals, or the provision of infrastructure, as each applies to such lands, nor shall the maintenance of such litigation or the judgment therein prevent the legislative body of the city or county or district from taking any action to permit or authorize use of, or to provide infrastructure for, property served by such facilities in conformity with the general plan and zoning designations in force immediately prior to September 1, 1977. In any such action the judgment shall not prevent the authorization or sale of any bonds of an improvement district which encompasses the territory of an improvement district wherein bonds were sold for sewer purposes prior to January 1, 1972. Any legal action pending as of the effective date of this section shall be deemed to be an action seeking relief not herein prohibited, and no court shall have jurisdiction to issue such prohibited relief.

Nothing in this sections shall be interpreted to preclude a city or county, at its discretion and in a manner pursuant to law, from altering plans, zoning, or subsequent development approvals applicable to such lands, or from enacting and enforcing further regulations upon their use. In addition nothing in this section shall be interpreted to excuse developments on such lands from compliance with all applicable requirements of state law.

CHAPTER 1102

An act to amend, add, and repeal Section 15402 of the Government Code, relating to the State Public Defender.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 15402 of the Government Code is amended to read:

15402. The State Public Defender may employ such deputies and other employees, and establish and operate such offices, as he may need for the proper performance of his duties. All civil service examinations for entry level attorney positions shall be on an open basis without career civil service credits given to any person. Civil service examinations for nonentry level positions may be on an open basis without career civil service credits given to any person or on a promotional basis as determined appropriate by the State Personnel Board in consultation with the State Public Defender. The State Public Defender may contract with county public defenders, private attorneys, and nonprofit corporations organized to furnish legal services to persons who are not financially able to employ counsel and pay a reasonable sum for those services pursuant to such contracts. He may provide for participation by such attorneys and organizations in his representation of eligible persons. Such attorneys and organizations shall serve under the supervision and control of the State Public Defender and shall be compensated for their services either under such contracts or in the manner provided in Penal Code Section 1241.

The State Public Defender may also enter into reciprocal or mutual assistance agreements with the board of supervisors of one or more counties to provide for exchange of personnel for the purposes set forth in Section 27707.1.

This section shall remain in effect only until January 1, 1980, and as of that date is repealed unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 2. Section 15402 is added to the Government Code, to read:

15402. The State Public Defender may employ such deputies and other employees, and establish and operate such offices, as he may need for the proper performance of his duties. All civil service examinations for attorney positions shall be on an open basis without career civil service credits given to any person. The State Public Defender may contract with county public defenders, private attorneys, and nonprofit corporations organized to furnish legal services to persons who are not financially able to employ counsel and pay a reasonable sum for those services pursuant to such contracts. He may provide for participation by such attorneys and

organizations in his representation of eligible persons. Such attorneys and organizations shall serve under the supervision and control of the State Public Defender and shall be compensated for their services either under such contracts or in the manner provided in Penal Code Section 1241.

The State Public Defender may also enter into reciprocal or mutual assistance agreements with the board of supervisors of one or more counties to provide for exchange of personnel for the purposes set forth in Section 27707.1.

SEC. 3. The Legislative Analyst shall review the effect of this act on the recruitment and promotion policies of the State Public Defender's Office and shall report his findings and recommendations to the Legislature by March 1, 1979.

SEC. 4. It is the intent of the Legislature that the amendments to Section 15402 of the Government Code which are made by Section 1 of this act shall remain in effect only until January 1, 1980, and on that date Section 2 of this act shall become operative to restore Section 15402 to the form in which it read immediately prior to the effective date of this act.

CHAPTER 1103

An act to add and repeal Chapter 2 (commencing with Section 2000) to Division 2.5 of the Welfare and Institutions Code, relating to youth and family projects, and making an appropriation therefor.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

I am reducing the appropriation contained in Section 3 of Assembly Bill No 965 from $62,500 to $30,000 The full-year cost of this bill will be reviewed during preparation of the 1978–79 Budget

With this reduction, I approve Assembly Bill No 965

EDMUND G BROWN JR , Governor

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

SECTION 1. Chapter 2 (commencing with Section 2000) is added to Division 2.5 of the Welfare and Institutions Code, to read:

CHAPTER 2. MULTISERVICE YOUTH AND FAMILY PROGRAMS

2000. The Legislature hereby finds that the most significant trend in the development of delinquency prevention programs has been in the direction of multipurpose comprehensive youth and family services, such as multipurpose youth service bureau projects, implemented at the local level and dealing with the prevention of juvenile delinquency through youth development and treatment

programs designed to prevent juvenile delinquency, child abuse and neglect, alcohol and drug abuse, and behavior patterns, such as runaway minors, which lead to antisocial behavior problems. The Legislature recognizes that the need for such services has become more pressing as a result of the major revisions in the juvenile court law enacted during the 1975–76 Regular Session of the Legislature. It is the intention of the Legislature to encourage countywide and areawide multiservice systems by providing for a reduction of the administrative obstacles to funding such activities through a joint funding simplification program for multiservice youth and family programs. This is not to be construed as a new funding program or single source of funds, but a coordination of existing sources, to the end that improved fund flow management techniques can be developed and demonstrated at state and local level.

2001. The Office of Criminal Justice Planning shall conduct a survey to determine which state agencies administer federal grant funds for the purposes set forth in Section 2002. All state agencies shall cooperate in such survey by identifying the type, quantity, period of availability of such grant funds and other information as set forth in the survey. State agencies which administer federal grant funds as provided shall designate an executive staff person to coordinate joint funding activities for that agency.

2002. Pursuant to the provisions of this chapter, an application may be submitted to the Office of Criminal Justice Planning for a joint funded multiservice youth and family program, provided that the application involves three or more separate federal grant fund sources administered by or through two or more state agencies and involves three or more of the functions set forth in this section. Any such program may provide all of the following services:

(a) Community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, and any other community-based diagnostic, treatment or rehabilitative service;

(b) Community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(c) Youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and youth in danger of becoming delinquent;

(d) Comprehensive programs of drug and alcohol abuse education and prevention and programs for the treatment and rehabilitation of drug-addicted youth, and "drug dependent" youth (as defined in the Public Health Service Act (42 U.S.C. 201));

(e) Educational programs or supportive services designed to keep delinquents and to encourage other youth to remain in elementary and secondary schools or in alternative learning situations;

(f) Expanded use of probation and recruitment and training of

probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth;

(g) Youth-initiated programs and outreach programs designed to assist youth who otherwise would not be reached by assistance programs; and

(h) Programs which:

(1) Reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the state juvenile population;

(2) Increase the use of nonsecure community-based facilities as a percentage of total commitments to juvenile facilities; and

(3) Discourage the use of secure incarceration and detention.

For each of these services, the Office of Criminal Justice Planning shall recommend to the appropriate state agency the development of state standards or procedures to which local programs shall adhere in program performance. The lack of existing standards shall not preclude the funding of programs pursuant to this chapter.

2003. Using the procedures developed for the Joint Funding Simplification Act of 1974 (P.L. 93-510) as a model, the Office of Criminal Justice Planning shall prepare procedures, in consultation with the Secretary of Health and Welfare and other state agencies identified under Section 2001, to govern the manner in which multiservice youth and family programs may be jointly funded. Such procedures shall be issued in the form of a management memorandum by the Department of Finance and made part of the state administrative manual. These procedures shall be developed and issued within 180 days after January, 1978. Such procedures shall, at a minimum, provide for the following:

(a) A single and uniform preapplication, application, review, approval or disapproval, accounting, requisitioning, monitoring, evaluation and auditing system for the grant proponent;

(b) That separate state-administered federal grant funds shall be combined but separately accounted by the lead agency and grantee;

(c) Coordination of timing of project period and payments where a single or combined schedule is to be established for the project as a whole;

(d) Establishment of a joint funding task force by the Office of Criminal Justice Planning for each joint funded preapplication and application. Such task force shall consist of representatives of all state agencies identified in the grant application as potential grantors;

(e) The Office of Criminal Justice Planning shall act as lead agency for receiving preapplications and applications under the provisions of this chapter. The Office of Criminal Justice Planning shall convene and chair joint funding task force meetings and coordinate the administration of joint funding grants;

(f) State grantor agencies shall participate in joint funding task force activities and in joint funding programs, but shall retain existing authority to grant approval.

(g) Joint funding grant proponents shall be counties, except that a city or a combination of contiguous cities organized pursuant to

Section 6500 and following of the Government Code, totaling over 200,000 population, may also act as an applicant, provided such combination formally requests county sponsorship of the application and the county takes no action or refuses to sponsor the application within 60 days of the request;

(h) Administrative policies, procedures and regulations which would hinder the joint funding program shall be waived by individual agencies. The applicant, with the assistance of the Office of Criminal Justice Planning, shall identify those administrative requirements which must be waived by individual grantor agencies;

(i) The application process shall consist of a preapplication for which a task force shall be established by the Office of Criminal Justice Planning. Such task force shall make findings of fund availability and the viability of a joint funded program. The preapplication shall either be rejected or application shall be invited. If rejected, reasons must be stated based on preestablished criteria. If application is invited, potential fund source availability shall be presented by individual grantor agencies and any problems they anticipate under joint funding shall be presented to the Office of Criminal Justice Planning. The Office of Criminal Justice Planning shall notify a proponent of preapplication decision, potential fund availability and invite complete application for continuing review and action;

(j) The Joint Funding Task Force established for each proponent shall provide technical assistance to the proponent throughout the application review and approval process; and

(k) That nonprofit community-based organizations will be used to implement no less than 50 percent of the joint funded multiservice youth and family program.

2004. Each state plan prepared pursuant to a federal law which qualifies the state for federal grant funds for one or more of the purposes set forth in Section 2002 and requires gubernatorial review under Part III of the President's Office of Management and Budget Circular A-95, or equivalent federal regulations implementing the Intergovernmental Cooperation Act of 1968, shall describe any joint funding proposals considered under such plan and set forth reasons for disapproval of any such proposal not approved.

2005. State administered joint funding multiservice youth and family programs are encouraged to seek out and cooperate with similar projects funded through the Joint Funding Simplification Act of 1974 (P.L. 93-510) by the federal government.

2006. The Office of Criminal Justice Planning shall annually submit a report to the Legislature and Governor on actions taken pursuant to this chapter and make recommendations for its continuation, modification, expansion to other programs or termination. The report shall provide a detailed evaluation of the functioning of this chapter, including information regarding the benefits and costs of jointly funded projects accruing to participating state and local governments.

SEC. 2. The provisions of this act shall be operative only until January 1, 1983, and on that date are repealed

SEC. 3. The sum of sixty-two thousand five hundred dollars ($62,500) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for the purposes of carrying out provisions of Chapter 2 (commencing with Section 2000) of Division 2.5 of the Welfare and Institutions Code during the fiscal year 1977–78.

CHAPTER 1104

An act to amend Sections 40000.7 and 42001 of, and to add Section 2800.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977.]

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

SECTION 1. Section 2800.1 is added to the Vehicle Code, to read:

2800.1. Every person who, while operating a motor vehicle, hears a siren and sees at least one lighted lamp exhibiting a red light emanating from a vehicle painted a distinctive color, distinctively marked, and operated by a member of the California Highway Patrol or any peace officer of any sheriff's or city police department wearing a complete, distinctive peace officer's uniform and appropriate badge, and who, with the intent to evade the officer, willfully disregards such siren and flashing light, and who flees or otherwise attempts to elude a pursuing peace officer's motor vehicle, is guilty of a misdemeanor.

SEC. 2. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42001.5, every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) and for a third or any subsequent conviction within a period of one year by a fine of not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Sections 2800, 2801, and 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, and Sections 2800.1 and 2815, shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) or by imprisonment in the county jail for not exceeding five days and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) or by imprisonment in

the county jail for not exceeding 10 days, or by both such fine and imprisonment and for a third or any subsequent conviction within a period of one year by a fine of not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment.

(c) Notwithstanding the provisions of subdivision (a), every pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(d) Subdivision (a) shall have no application to any violation punishable pursuant to Section 42001.7, any violation by a pedestrian, or Article 2 (commencing with Section 42030) of Chapter 1 of this division relating to weight violations.

SEC. 3. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

Section 2800.1, relating to fleeing from a peace officer.

Section 2801, relating to failure to obey a fireman's lawful order.

Section 2803, relating to unlawful vehicle or load.

Section 2815, relating to failure to obey a crossing guard's traffic signal or direction.

Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

Section 5901, relating to dealers and lessor-retailers giving notice.

Section 5901.1, relating to lessors giving notice and failure to pay fee.

Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, transporter, dismantler, or salesman.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant, identifiable cost changes.

CHAPTER 1105

An act to amend, add, and repeal Section 1505 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 1505 of the Health and Safety Code is amended to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any neighborhood family day care home which is accredited by a school district pursuant to Section 16725 of the Education Code.

(d) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(e) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 362 of the Welfare and Institutions Code.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any residential facility exclusively serving persons of ages 16 to 19 years, inclusive, which is operated by a nonprofit corporation sponsored by a combination of well-recognized, bona fide churches or religious denominations for the purpose of providing moral and spiritual guidance to such persons as well as board, room, and care. In such a facility, all minors are placed in the custody thereof pursuant to a power of attorney executed by the minor's parent or guardian, or pursuant to an order of a court of competent jurisdiction, granting such facility complete authority over the person of the minor until rescinded or revoked. Such a facility shall not receive any form of grant assistance from any agency of federal, state, or local government for the provision of such care

Any facility desiring an exemption under this subdivision shall make application to the state department, which shall grant the exemption if the facility meets the criteria specified in this subdivision. A facility exempted from licensure pursuant to this subdivision shall nevertheless be subject to all requirements of state and local law and ordinances, including regulations adopted pursuant to this chapter, which prescribe standards of sanitation or fire and life safety applicable to the facility.

(h) Any school dormitory or similar facility determined by the department.

(i) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director

(j) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug

addiction where the facility provides no care or supervision.

(k) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(*l*) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(m) Any similar facility determined by the director.

This section shall remain in effect only until January 1, 1983, and as of that date is repealed unless a later enacted statute which is chaptered prior to January 1, 1983, deletes or extends that date.

SEC. 2. Section 1505 is added to the Health and Safety Code, to read:

1505. The provisions of this chapter shall not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any neighborhood family day care home which is accredited by a school district pursuant to Section 16725 of the Education Code.

(d) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(e) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if such arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any similar facility determined by the director

This section shall become operative January 1, 1983, unless a later enacted statute which is chaptered prior to January 1, 1983, deletes or extends that date.

SEC. 3. It is the intent of the Legislature that the amendments to Section 1505 of the Health and Safety Code which are made by Section 1 of this act shall remain in effect only until January 1, 1983, and on that date Section 2 of this act shall become operative to restore Section 1505 to the form in which it read immediately prior to the effective date of this act.

CHAPTER 1106

An act to amend Sections 5418, 5481, 5482, and 5483 of the Business and Professions Code, to amend Sections 14002.5, 14007, 14030, 65080, and 65080.5 of, to amend the heading of Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7 of, to add Sections 14032, 14032.5, 14036, 65080.1, 65081, and 65082 to, to add Part 4.6 (commencing with Section 13990) and Part 5.3 (commencing with Section 14500) to Division 3 of Title 2 of, to repeal Sections 65081, 65081.5, 65082, and 65083 of, to repeal Part 4.6 (commencing with Section 13990) and Article 4 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, to amend Sections 130252 and 130304 of, to repeal and add Article 1.5 (commencing with Section 21215) of Chapter 2 of Part 1 of Division 9 of the Public Utilities Code, and to amend Sections 182, 185, 188.3, 194, 199.1, 2233, 2332, 2333, and 2358 of, to add Sections 70, 183, and 189 to, to add Article 4.5 (commencing with Section 165) to Chapter 1 of Division 1 of, to repeal Sections 70, 70.1, 104.65, 143, 143.1, 143.15, 143.2, 143.3, 183, 186, 186.1, 188.9, and 194.5 of, and to repeal and add Article 2 (commencing with Section 30050) of Chapter 1 of Division 17 of, the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. This act shall be known and cited as the "Alquist-Ingalls Act."

SEC. 2. It is the intent of the Legislature, through the enactment of this law, to reform the state transportation program by all of the following:

(a) Simplifying and clarifying the transportation planning and programming process.

(b) Consolidating the various transportation boards and commissions into a single planning and fund allocation commission.

(c) Increasing the responsibility and effectiveness of the role of the Legislature in deciding state transportation policy and budgeting.

SEC. 3. Section 5418 of the Business and Professions Code is amended to read:

5418. The California Transportation Commission is authorized to allocate sufficient funds from the State Highway Account in the State Transportation Fund that are available for capital outlay purposes to match federal funds made available for the removal of outdoor advertising displays.

SEC. 4. Section 5481 of the Business and Professions Code is amended to read:

5481. All license and permit fees collected by the director and his or her authorized agents in accordance with the provisions of this chapter shall be deposited in the State Highway Account in the State Transportation Fund, except that 20 percent of all fees collected by county clerks appointed by the director shall be retained by the county in which the fees are collected. All money received by the state from the United States pursuant to subsection (c) of Section 131 of Title 23 of the United States Code shall be deposited in the same account. All license and permit fees shall be accounted for by the director in the manner provided by law.

SEC. 5. Section 5482 of the Business and Professions Code is amended to read:

5482. All fines imposed and recovered under this chapter are payable to the State Treasurer to the State Highway Account in the State Transportation Fund.

SEC. 6. Section 5483 of the Business and Professions Code is amended to read:

5483. The expense of administering this chapter is under the control of the director. Money in the State Highway Account in the State Transportation Fund shall be available for the administration and enforcement of this chapter upon appropriation by the Legislature or when made available pursuant to Section 13322 of the Government Code.

SEC. 8. Part 4.6 (commencing with Section 13990) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 9. Part 4.6 (commencing with Section 13990) is added to Division 3 of Title 2 of the Government Code, to read:

PART 4.6. STATE TRANSPORTATION BOARD

13990. (a) The State Transportation Board and the State Transportation Board Office are hereby abolished, and the California Transportation Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the State Transportation Board and the State Transportation Board Office.

(b) Any reference in any law or regulation to the State Transportation Board or the State Transportation Board Office shall

be deemed to refer to the California Transportation Commission.

(c) The California Transportation Commission shall have the possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the State Transportation Board or the State Transportation Board Office.

SEC. 10. Section 14002.5 of the Government Code is amended to read·

14002.5 As used in this part, unless the context otherwise requires:

(a) "Department" means the Department of Transportation.

(b) "Director" means the Director of Transportation.

(c) "Secretary" means the Secretary of the Business and Transportation Agency.

(d) "Board" or "commission" means the California Transportation Commission.

SEC 11. Section 14007 of the Government Code is amended to read:

14007. For the purpose of administration, the director shall organize the department with the approval of the Governor and the secretary in the manner that they deem necessary properly to segregate and conduct the work of the department

The work of the department shall be divided into at least five divisions, known as the Division of Highways, Division of Aeronautics, Division of Mass Transportation, Division of Administrative Services, and the Legal Division.

With the approval of the Governor and the secretary, the director may create, change, or abolish such other divisions and subdivisions as may be necessary.

Any reference in any law or regulation to the Division of Bay Toll Crossings shall be deemed to refer to the department.

SEC. 12. Section 14030 of the Government Code is amended to read·

14030. The powers and duties of the department shall include, but not be limited to, the following activities:

(a) Supporting the commission in coordinating and developing, in cooperation with local and regional entities, comprehensive balanced transportation planning and policy for the movement of people and goods within the state.

(b) Coordinating and assisting, upon request of, the various public and private transportation entities in strengthening their development and operation of balanced integrated mass transportation, highway, aviation, maritime, railroad, and other transportation facilities and services in support of statewide and regional goals.

(c) Developing, in cooperation with local and regional transportation entities, the full potential of all resources and

opportunities which are now, and may become, available to the state and to regional and local agencies for meeting California's transportation needs, as provided by statutes and, in particular, maximizing the amount of federal funds which may be available to the state and increasing the efficiency by which such funds are utilized.

(d) Planning, designing, constructing, operating, and maintaining those transportation systems which the Legislature has made, or may make, the responsibility of the department, provided that the department is not authorized to assume the functions of project planning, designing, constructing, operating, or maintaining maritime or aviation facilities without express prior approval of the Legislature with the exception of those aviation functions which have been designated for the department in the Public Utilities Code.

(e) Coordinating and developing transportation research projects of statewide interest

(f) Exercising such other functions, powers, and duties as are or may be provided for by law

SEC. 13. Section 14032 is added to the Government Code, to read:

14032. The department shall provide reports and analyses for the commission on all of the following:

(a) The review and evaluation of regional transportation plans and improvement programs for the identification of conflicts between such plans and programs

(b) The identification and analysis of current and potential future issues of importance to transportation within the state

(c) The preparation of an annual and of a five-year estimate of all federal and state funds available to each region for transportation improvements

(d) The preparation of special studies as requested by the commission.

(e) Other matters as requested by the commission.

SEC. 14. Section 14032.5 is added to the Government Code, to read:

14032.5 The department may assist regional transportation planning agencies with the preparation of regional transportation plans and improvement programs by providing technical services and other assistance as determined by the director and the transportation planning agency as necessary for the timely and comprehensive discharge of the responsibilities of the transportation planning agency.

SEC. 15. Section 14036 is added to the Government Code, to read:

14036. State highway projects to be included in the program of proposed projects report submitted to the United States Secretary of Transportation pursuant to Section 105 of Title 23 of the United States Code shall be those included in the five-year program for the

expenditure of state transportation funds as set forth in the state transportation improvement program after July 1, 1979.

SEC. 16. Article 4 (commencing with Section 14040) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 17. Part 5.3 (commencing with Section 14500) is added to Division 3 of Title 2 of the Government Code, to read:

PART 5.3. CALIFORNIA TRANSPORTATION COMMISSION

CHAPTER 1. GENERAL

14500. There is in the state government a California Transportation Commission.

14501. As used in this part, unless the context requires otherwise:

(a) "Commission" means the California Transportation Commission.

(b) "Department" means the Department of Transportation.

14502. The commission shall consist of 11 members appointed as follows:

(a) Nine members, one of whom shall be a member of the Public Utilities Commission, shall be appointed by the Governor with the advice and consent of the Senate.

(b) One Member of the Senate appointed by the Senate Rules Committee and one Member of the Assembly appointed by the Speaker of the Assembly shall be ex officio members without vote and shall participate in the activities of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.

14503. (a) Other than ex officio members, the members of the commission shall hold office for terms of four years, and until their successors are appointed, except as otherwise provided in this section.

(b) In the case of the members initially appointed by the Governor, three shall be appointed to serve until February 1, 1979, two until February 1, 1980, two until February 1, 1981, and two until February 1, 1982.

14504. In appointing members, the Governor shall make every effort to assure that there is a geographic balance of representation on the commission as a whole, with members from the northern and southern areas and from the urban and rural areas of the state.

Each member of the commission shall represent the state at large.

14505. The commission shall elect one of its members as a chairman who shall preside at all meetings, and a vice chairman who shall preside in the absence of the chairman.

The chairman shall serve a term of one year. No member may serve as chairman for more than two successive terms.

14505.5 After consulting with members of the commission, the chairman of the commission shall appoint the members of all the

committees of the commission, including those committees created pursuant to Section 14506.

Each committee shall elect one of its members other than the chairman of the commission, as the committee chairman, who shall preside at all committee meetings.

14506. In order to perform its duties and functions, the commission shall organize itself into at least the following four committees:

(a) The Committee on Aeronautics, which shall consider issues related to aeronautics.

(b) The Committee on Streets and Highways, which shall consider issues related to streets and highways.

(c) The Committee on Mass Transportation, which shall consider issues related to the movement of groups of people within urban areas, and between rural communities and between cities.

(d) The Committee on Planning, which shall be responsible for transportation planning related issues, including, but not limited to, monitoring the transportation planning and programming process pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7 and recommending to the commission the allocation of federal and state funds available for planning and research.

14506.5 The chairman shall appoint a Technical Advisory Committee on Aeronautics, after consultation with members of the aviation industry, airport operators, pilots, and other aviation interest groups and experts, as appropriate. This Technical Advisory Committee shall give technical advice to the Committee on Aeronautics on the full range of aviation issues to be considered by the commission.

14507. The commission shall not form a committee for the purpose of considering budgetary and related fiscal matters.

14508. The chairman shall not serve on any of the committees except in an ex officio capacity.

14509. Each member shall receive a compensation of one hundred dollars ($100) for each day attending meetings of the commission or committees thereof, but not to exceed five hundred dollars ($500) during any month, and the necessary expenses incurred by the member in the performance of the member's duties.

14510. The commission shall appoint an executive secretary for the commission who shall serve at the pleasure of the commission.

The executive secretary shall receive the salary established by the Director of Finance for exempt officials.

14511. The executive secretary shall administer the affairs of the commission as directed by the commission and shall direct the staff of the commission.

14512. The executive secretary may appoint, with the approval of the commission, such staff as necessary to carry out the provisions of this part.

The commission may request the department, and the department

shall have the authority, to perform such work as the commission deems necessary to carry out its duties and responsibilities. The commission shall consider the expertise and resources available in the department for the purpose of carrying out its duties and responsibilities. This does not preclude, however, the commission from utilizing the services of other agencies, public or private.

14513. The legal division of the department may serve as legal advisor to the commission at its request.

14514. The commission may sue or be sued.

CHAPTER 2. DUTIES

14520 The commission shall advise and assist the Secretary of the Business and Transportation Agency and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

14521. The commission may request and review reports of the department and of other entities which pertain to transportation issues and concerns that the commission determines need special study.

14522. In cooperation with the regional transportation planning agencies, the commission may prescribe study areas for analysis and evaluation by such agencies and guidelines for the preparation of the regional transportation plans and the regional transportation improvement programs.

14523. The commission shall prepare an independent evaluation of the department's budget and submit its recommendations to the Legislature not later than February 15, 1979, and not later than February 15 of each year thereafter.

14524. Not later than October 1, 1978, and not later than October 1 of each year thereafter, the department shall submit to the commission a recommended annual and five-year estimate of all federal and state funds available for transportation purposes in order that the commission may provide estimates pursuant to Section 14525.

The estimate shall be on the basis of state transportation districts, and the boundaries of the transportation planning agencies and county transportation commissions in urbanized areas over 50,000 in population. The method by which the estimate is arrived at, including the way in which state discretionary funds are to be estimated, shall be determined by the commission in consultation with the department, the transportation planning agencies, and the county transportation commissions. The estimate shall not include federal discretionary grants or funds

14525. Not later than November 1, 1978, and not later than November 1 of each year thereafter, the commission shall adopt and provide, to the transportation planning agencies and county transportation commissions, an annual and five-year estimate of all state and federal funds reasonably expected to be available to each

region for transportation purposes.

The commission may amend the estimate following consultation with the department, transportation planning agencies, and county transportation commissions to account for unexpected revenues or other unforeseen circumstances.

14526. Not later than December 1, 1978, and not later than December 1 thereafter, the department shall submit, to the commission and all transportation planning agencies and county transportation commissions, its proposed state transportation improvement program as defined in Section 14529. The proposed program shall be consistent with the estimate of funds adopted by the commission pursuant to Section 14525.

14527. After consulting with the department and considering its proposed program, the transportation planning agencies and county transportation commissions in urbanized areas of over 50,000 population shall adopt and submit to the commission and department, not later than April 1, 1979, and not later than April 1 of each year thereafter, a transportation improvement program, including at a minimum, state transportation funds subject to allocation by the commission as provided for in Section 65082. Other information, including a program for expenditure of local or federal funds may be submitted for information purposes with the program, but only at the discretion of the transportation planning agencies or the county transportation commissions. Except for such information submitted at the discretion of the transportation planning agencies and county transportation commissions, the regional transportation improvement program shall be consistent with the estimate of funds made by the commission pursuant to Section 14525.

14528. In all other areas of the state, the transportation planning agencies shall adopt and submit comments they may have relative to the department's proposed state transportation improvement program to the commission and department not later than April 1, 1979, and not later than April 1 of each year thereafter.

14529. After taking into consideration the proposed state transportation improvement program submitted by the department pursuant to Section 14526, the regional transportation improvement programs submitted pursuant to Section 14527, and comments submitted pursuant to Section 14528, through the use of public hearings, the commission shall adopt and submit to the Legislature and Governor by July 1, 1979, and not later than July 1 of each year thereafter, a five-year state transportation improvement program including all funds to be allocated by the commission consisting of:

(a) The estimate of available funds from state and federal sources and associated constraints for transportation improvement in the state.

(b) All major projects, as determined by the commission, to be funded from state transportation funds allocated by the commission during the succeeding five fiscal years.

(c) A summary of expenditures for minor projects, as determined

by the commission, to be funded from state transportation funds allocated by the commission during the succeeding five fiscal years.

(d) Recommended annual expenditures from the State Highway Account in the State Transportation Fund by program category, as set forth in the Budget Act, for the succeeding five fiscal years.

(e) Any additional action and information determined by the commission to be relevant to the successful implementation of the adopted state transportation improvement program.

The state transportation improvement program shall be consistent with the estimate of available revenues.

14530. The commission may deviate, in the adoption of the state transportation improvement program, from a regional transportation improvement program based on a finding that there (a) is an overriding statewide interest as determined by the commission, (b) are insufficient funds available to implement the program, or (c) exist conflicts between the regional transportation improvement programs.

14531. Appeals regarding the adopted state transportation improvement program shall be made directly to the commission. Commencing in 1979, the appeals submitted to the commission by August 1 shall be considered by the commission at a public hearing held not later than the following August 15 The commission may amend the state transportation improvement program as it deems appropriate, provided that all such proposed amendments are noticed to the public at least 30 calendar days before the commission takes formal action regarding such proposed amendments.

14532. The commission, in cooperation with the department, transportation planning agencies, and county transportation commissions, shall adopt appropriate guidelines for the preparation of the state and regional transportation improvement programs. Such guidelines shall be consistent with the process described in this chapter. The department, the transportation planning agencies, and county transportation commissions shall comply with the guidelines.

14533. The commission shall allocate funds for transportation projects consistent with the Budget Act for that fiscal year. After July 1, 1979, the commission shall not allocate funds for projects that are not included in its adopted state transportation improvements program.

14534. Upon the adoption of the state transportation improvement program, the Secretary of the Business and Transportation Agency, the commission, and the department shall act in accordance with the program in carrying out their respective powers and duties, except as otherwise provided by law

CHAPTER 3. BIENNIAL REPORT

14535. The commission shall adopt and submit to the Legislature, not later than December 31, 1978, and biennially not later than December 31 thereafter, a report to the Legislature. This report shall

constitute the California Transportation Plan for the purpose of Section 3 of Article XIX of the California Constitution.

14536. The report shall consist of the following:

(a) An evaluation of significant transportation issues that can be anticipated to be of public concern during and beyond the five-year period. Where appropriate, the evaluation should contain recommended modifications to state and federal law. This evaluation shall fully consider the adopted regional transportation plans as well as long-range issues that may directly impact the state's ability to provide transportation services, including, but not limited to, the availability of energy.

(b) An overview of necessary future investments in the development and operation of the transportation system in California, including identification of potential sources of additional revenue needed to finance such investments

14537. The commission, in the first California Transportation Plan, shall submit its recommendations as to necessary revisions to the allocation formulas in Sections 188, 188.8, and 188.9 of that code so that the allocation of funds pursuant to those sections, with the allocation of other available funds, meet the relative state highway and transit construction needs of all areas of the state.

SEC. 18. The heading of Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7 of the Government Code is amended to read:

CHAPTER 2.5. TRANSPORTATION PLANNING AND PROGRAMMING

SEC. 19 Section 65080 of the Government Code is amended to read:

65080. (a) Except as provided in subdivisions (c) and (d), each transportation planning agency designated under subdivision (a) or (b) of Section 29532 shall prepare a regional transportation plan and a regional transportation improvement program directed at the achievement of a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, and aviation facilities and services. The plan shall be action-oriented and pragmatic considering both the short- and long-term future and shall present clear, concise policy guidance to local and state officials. The program shall support and be consistent with the plan Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, special districts, private organizations, and state and federal agencies.

(b) Each transportation planning agency shall adopt a regional transportation plan and, if it prepares a regional transportation improvement program, shall adopt such a program. Prior to adoption, a public hearing shall be held, after the giving of notice of such hearing by publication in the affected county or counties pursuant to Section 6061. Prior to the adoption of the program, the

governing body or the designated policy committee of the transportation planning agency shall consider the relationship between the program and the adopted plan. The adopted plan, not later than October 1, 1978, and the adopted program, not later than April 1, 1979, shall be transmitted to the California Transportation Commission and the Department of Transportation. Thereafter, each transportation planning agency shall adopt and submit annually, not later than April 1, an updated regional transportation improvement program as specified in Section 65082, and biennially, not later than November 1, an updated regional transportation plan to the commission and the department.

(c) A transportation planning agency designated under subdivision (b) of Section 29532 may have the regional transportation plan for the area under its jurisdiction prepared by the Department of Transportation by adopting a resolution to that effect prior to July 1, 1978. In such a case, Section 65080.5 shall be applicable to the agency.

(d) The regional transportation improvement program shall be prepared and adopted only by the transportation planning agencies and by county transportation commissions representing urbanized areas of 50,000 or more in population. The department shall prepare the programs, on a state transportation district basis, for all other areas of the state

(e) The regional transportation plans, and the revisions thereof, submitted to the department pursuant to subdivision (b) prior to the amendment of this section enacted at the 1977-78 Regular Session of the Legislature shall remain in effect until the submittal of such plans and regional transportation improvement programs to the commission.

SEC 19.5. Section 65080 1 is added to the Government Code, to read:

65080.1 A transportation planning agency which has within its area of jurisdiction a transit development board established pursuant to Division 11 (commencing with Section 120000) of the Public Utilities Code shall include, in the regional transportation improvement program prepared pursuant to Section 65080, those elements of the transportation improvement program prepared by the transit development board pursuant to Section 120353 of the Public Utilities Code relating to funds made available to the transit development board for transportation purposes.

SEC. 20. Section 65080.5 of the Government Code is amended to read:

65080.5. (a) For each area for which a transportation planning agency is designated under subdivision (c) of Section 29532, or adopts a resolution pursuant to subdivision (c) of Section 65080, the Department of Transportation, in cooperation with the transportation planning agency, and subject to subdivision (e), shall prepare the regional transportation plan, and the updating thereto, for that area and submit it to the governing body or designated policy

committee of the transportation planning agency for adoption. Prior to adoption, a public hearing shall be held, after the giving of notice of such hearing by publication in the affected county or counties pursuant to Section 6061. Prior to the adoption of the regional transportation improvement program by the transportation planning agency if it prepared the program, the transportation planning agency shall consider the relationship between the program and the adopted plan. The adopted plan and program, and the updating thereto, shall be submitted to the California Transportation Commission and the department pursuant to subdivision (b) of Section 65080.

(b) In the case of a transportation planning agency designated under subdivision (c) of Section 29532, the transportation planning agency may prepare the regional transportation plan for the area under its jurisdiction pursuant to this chapter, if the transportation planning agency, prior to July 1, 1978, adopts by resolution a declaration of intention to do so.

(c) In those areas that have a county transportation commission created pursuant to Section 130050 of the Public Utilities Code, the multicounty designated transportation planning agency, as defined in Section 130004 of that code, shall prepare the regional transportation plan and the regional transportation improvement program in consultation with the county transportation commissions.

(d) Any transportation planning agency which did not elect to prepare the initial regional transportation plan for the area under its jurisdiction, may prepare the updated plan if it adopts a resolution of intention to do so at least one year prior to the date when the updated plan is to be submitted to the California Transportation Commission.

(e) If the department prepares or updates a regional transportation improvement program or regional transportation plan, or both, pursuant to this section, the state-local share of funding the preparation or updating of the plan and program shall be calculated on the same basis as though the preparation or updating were to be performed by the transportation planning agency and funded under Sections 99312, 99313, and 99314 of the Public Utilities Code

SEC. 21. Section 65081 of the Government Code is repealed.

SEC. 22. Section 65081 is added to the Government Code, to read:

65081. The regional transportation plan shall include:

(a) A policy element that considers important transportation issues and describes the desired short- and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall consider probable funding constraints.

(b) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. In urbanized areas over 50,000 population, the action element shall include a transportation system management element

that describes how the region intends to improve the people and goods movement capability of its existing transportation system through appropriate management techniques.

(c) A financial element that summarizes the cost of plan implementation, compares these costs to a realistic projection of available revenues, and includes estimates of expected surplus and deficits. It shall contain recommendations for the allocation of funds and for the development of new sources of revenues if needed.

SEC. 23. Section 65081.5 of the Government Code is repealed.

SEC. 24. Section 65082 of the Government Code is repealed.

SEC. 25. Section 65082 is added to the Government Code, to read:

65082. A regional transportation improvement program shall be prepared, adopted, submitted and annually updated pursuant to Sections 65080 and 65080.5 to include:

(a) Projects proposed to be funded, in whole or part, from the State Highway Account in the State Transportation Fund during the succeeding five years within the following program categories: (1) new facilities, (2) operational improvements, and (3) local assistance. Major projects shall be listed by relative priority.

(b) Projects and programs proposed to be funded, in whole or part, by funds subject to allocation by the California Transportation Commission during the succeeding five years other than funds in the State Highway Account in the State Transportation Fund.

The regional transportation improvement programs shall be consistent with guidelines established by the commission pursuant to Section 14532 and shall be consistent with the estimate of funds provided by the commission pursuant to Section 14525, except as provided in Section 14527. The regional transportation improvement program may be used to meet federal planning requirements where appropriate.

SEC. 26. Section 65083 of the Government Code is repealed.

SEC. 28. Article 1.5 (commencing with Section 21215) of Chapter 2 of Part 1 of Division 9 of the Public Utilities Code is repealed.

SEC. 29. Article 1.5 (commencing with Section 21215) is added to Chapter 2 of Part 1 of Division 9 of the Public Utilities Code, to read:

Article 1.5. State Aeronautics Board

21215. (a) The State Aeronautics Board is hereby abolished, and the California Transportation Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction vested in the State Aeronautics Board.

(b) Any reference in any law or regulation to the State Aeronautics Board shall be deemed to refer to the California Transportation Commission.

(c) The California Transportation Commission shall have the

possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the State Aeronautics Board.

21216. Any person or entity injured or aggrieved by any procedure or action of the department with respect to aeronautics may appeal to the California Transportation Commission for relief, and the decision of the commission as to such matter shall, after hearing thereon, be conclusive, subject to such administrative adjudication or judicial review as may be otherwise provided by law.

SEC. 30. Section 130252 of the Public Utilities Code is amended to read:

130252. (a) All plans proposed for the design, construction, and implementation of public mass transit systems or projects, including exclusive public mass transit guideway systems or projects, and federal-aid and state highway projects, shall be submitted to the commission for approval. No such plan shall be approved unless it conforms to the appropriate adopted regional transportation plan pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

(b) The commission shall also have no approval authority over the projects, plans, and programs determined by the Department of Transportation to be necessary for the safety and maintenance of the state highway system. Such projects, plans, and programs shall be developed by the department and, to the extent feasible, be coordinated with the planning of the commission. Plans and programs involving significant rebuilding or rehabilitation of the state highway system, as determined by the department and the commission, shall be developed jointly by the department and the commission.

SEC. 31. Section 130252 of the Public Utilities Code is amended to read:

130252. (a) All plans proposed for the design, construction, and implementation of public mass transit systems or projects, including exclusive public mass transit guideway systems or projects, and federal-aid and state highway projects, shall be submitted to the commission for approval. No such plan shall be approved unless it conforms to the appropriate adopted regional transportation plan pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

(b) The commission shall have no approval authority over the projects, plans, and programs determined by the Department of Transportation to be necessary for the safety and maintenance of the state highway system. Such projects, plans, and programs shall be developed by the department and, to the extent feasible, be coordinated with the planning of the commission. Plans and programs involving significant rebuilding or rehabilitation of the state highway system, as determined by the department and the

commission, shall be developed jointly by the department and the commission.

(c) As used in this section, "plan" means a project description and not the detailed project plans, specifications, and estimates.

SEC. 34. Section 130304 of the Public Utilities Code is amended to read.

130304. (a) The county transportation commission shall submit the short-range transportation improvement program prepared pursuant to subdivision (b) of Section 130303 to the multicounty designated transportation planning agency. The program shall be the county transportation commission's recommendation to the agency regarding that portion of the regional transportation improvement program with respect to short-range objectives applicable to the county under the jurisdiction of the county transportation commission. The recommended program shall be submitted to the agency in a timely fashion, and the agency shall review and adopt this portion of the regional transportation improvement program in a timely fashion, giving full explanation for any necessary revision of the county transportation commission's recommended program.

(b) The multicounty designated transportation planning agency may revise the submitted transportation improvement program in order to resolve conflicts between the recommended programs or with the adopted regional transportation plan. In case of a disagreement as to the resolution of such a conflict between the agency and the involved county transportation commissions, the California Transportation Commission shall resolve the conflict

SEC. 35 Section 70 of the Streets and Highways Code is repealed.

SEC. 36 Section 70 is added to the Streets and Highways Code, to read:

70. (a) The California Highway Commission is hereby abolished, and the California Transportation Commission succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the California Highway Commission.

(b) Any reference in any law or regulation to the California Highway Commission shall be deemed to refer to the California Transportation Commission

(c) The California Transportation Commission shall have the possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the California Highway Commission.

SEC. 37. Section 70.1 of the Streets and Highways Code is repealed

SEC. 40. Section 104.65 of the Streets and Highways Code is repealed

SEC. 41. Section 143 of the Streets and Highways Code is

repealed.

SEC. 42. Section 143.1 of the Streets and Highways Code is repealed.

SEC. 43. Section 143.15 of the Streets and Highways Code is repealed.

SEC. 44. Section 143.2 of the Streets and Highways Code is repealed.

SEC. 45. Section 143.3 of the Streets and Highways Code is repealed.

SEC. 46. Article 4.5 (commencing with Section 165) is added to Chapter 1 of Division 1 of the Streets and Highways Code, to read:

Article 4.5. Transportation Budget

165. Commencing with the budget for the 1978–79 fiscal year, the department shall prepare and submit to the Governor a proposed budget for the department. The department shall include, within the proposed budget, the portion of that budget that is to be funded from the State Highway Account in the State Transportation Fund.

The department shall inform the commission of all pertinent assumptions and policy directions it intends to use in preparing the budget. This information shall be forwarded to the commission as soon as available. The commission shall review the assumptions and policy directions used in preparing the budget and forward its comments and recommendations to the department.

166. The portion of the proposed budget to be funded from the State Highway Account in the State Transportation Fund shall be included in the printed fiscal year budget submitted to the Legislature. The degree of detail contained in such portion of the proposed budget shall be established jointly by the Department of Transportation and the Department of Finance. Such portion of the proposed budget shall be, for the State Highway Account, the complete and detailed budget as required by Section 13320 of the Government Code. In case of inconsistency between that section and this article, the provisions of this article shall control.

Notwithstanding Section 13321 of the Government Code, the Department of Transportation, in administering the budget of the State Highway Account in the State Transportation Fund, shall be responsible for determining the expenditures or incurrence of obligations by quarter or other period of the fiscal year.

166.5. In order to support its 1979–80 and subsequent fiscal years proposed budgets and to improve its program management, the Department of Transportation shall develop budgeting, accounting, fiscal control, and management information systems to provide at least the following information:

(a) Documentation and control of positions and personnel services expenditures.

(b) Accounting and reporting of revenues and expenditures on a basis generally consistent with provisions of the Government Code.

These systems shall be developed so as to better inform the Legislature in order that responsible legislative oversight of the program and budget of the Department of Transportation would be possible. These systems shall recognize the special characteristics of the department's program

A progress report on the development and implementation of these systems shall be submitted by the Department of Transportation to the Legislature not later than January 10, 1978 A final report, including a description of the recommended systems that will be used to implement this section, shall be submitted by the department to the Legislature not later than July 1, 1978. Development of these systems shall be closely coordinated with the Department of Finance, the Joint Legislative Budget Committee, the Committees on Transportation of the Senate and Assembly, the Subcommittee on Transportation of the Senate Committee on Finance, and the Subcommittee on Transportation of the Assembly Committee on Ways and Means

167. With respect to the funds in the State Highway Account in the State Transportation Fund, the proposed budget shall be organized on a program basis The proposed budget shall list the proposed expenditures under the following programs

(a) Administration.
(b) Program development
(c) Maintenance
(d) Operation.
(e) Rehabilitation
(f) Operational improvements
(g) New facilities
(h) Local Assistance

The basis for defining major and minor capital outlay projects shall be established by the commission.

168 During the fiscal year, the department, with the approval of the commission, may transfer funds between the programs.

Such transfers shall not decrease the amount of such funds to be expended for any of such programs by more than 10 percent of the total amount appropriated and identified in the appropriation schedules

Such transfers may only be made with the approval of the commission and the Director of Finance and after submitting a five-day notice of intent to make such transfers to the chairman of the committee in each house which considers appropriations and to the Chairman of the Joint Legislative Budget Committee

169. For the purposes of this code, except as provided in Section 170, the date of the award of a contract and of the commencement of a day-labor project shall be deemed the time when the entire obligation thereunder is incurred.

170 Where it is estimated by the department that the work involved in a project to be constructed under the State Contract Act (Chapter 3 (commencing with Section 14250), Part 5, Division 3,

Title 2 of the Government Code) will not be completed within a given fiscal year, the department, in the contract specifications, may provide a limitation upon the amounts that will be paid to the contractor during the first or second fiscal years of the construction period. Subject to such limitation, such contracts shall provide for the completion of the work and full payment therefor.

For the purposes of complying with Section 169, the department may include in any proposed budget, and the commission may allocate, at least such amounts with reference to such construction projects as would be payable during the fiscal year, together with all necessary engineering and other charges.

171. Prior to the commencement of each fiscal year, the department may advertise for bids for capital outlay projects anticipated to be budgeted during the fiscal year. However, the department shall not award any contract for any capital outlay project until (1) sufficient funds have been appropriated for such project and (2) the commission has allocated sufficient funds for the project.

SEC. 47. Section 182 of the Streets and Highways Code is amended to read:

182. The "State Highway Fund" is continued in existence as the State Highway Account in the State Transportation Fund. Any reference in any law or regulation to the State Highway Fund shall be deemed to refer to the State Highway Account in the State Transportation Fund

There shall be transferred to, or deposited in, the State Highway Account all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for expenditure on work within the powers and duties of the department, including, but not limited to, services, investigations, surveys, experiments, reports, right-of-way acquisitions, major and minor construction, maintenance, improvements, and equipment, as authorized by the state agency for which such an appropriation is made, or as to funds from sources other than state appropriations, as may be authorized by written agreement between the contributor of such funds and the department.

Money so transferred or deposited is available for expenditure by the department for the purposes for which appropriated, contributed, or made available without regard to fiscal years and Section 16304 of the Government Code. The department may withdraw from the account for use in work for other public agencies, local, state, or federal, such sums as may be necessary for such work where the money to be paid by such other agencies is not deposited in the account in advance of the work being done.

SEC. 48. Section 183 of the Streets and Highways Code is repealed.

SEC. 49. Section 183 is added to the Streets and Highways Code, to read:

183. *All money in the State* Highway Account in the State

Transportation Fund derived from federal sources or from appropriations to other state agencies, or deposited in the account by local agencies or by others, is continuously appropriated to, and shall be available for expenditure by, the department for the purposes for which such money was made available.

Unless otherwise expressly provided for by law, none of the balance of the money in the State Highway Account shall be expended until it has been specifically appropriated by the Legislature or made available pursuant to Section 13322 of the Government Code.

The Budget Act appropriations shall be made on a program basis only and shall not identify the specific capital outlay projects to be funded. The commission shall be responsible for allocating such funds to specific projects within the budget program categories.

SEC. 50. Section 185 of the Streets and Highways Code is amended to read:

185. All money withdrawn from the State Highway Account in the State Transportation Fund shall be withdrawn in the manner provided by law upon demands made by the department.

The department may establish a revolving fund to be administered pursuant to Section 16400 of the Government Code and to serve as a revolving fund from which relocation assistance payments may be made pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

SEC. 51. Section 186 of the Streets and Highways Code is repealed.

SEC. 52. Section 186.1 of the Streets and Highways Code is repealed.

SEC. 53. Section 188.3 of the Streets and Highways Code is amended to read:

188.3. The cost of maintenance of all toll bridges under the jurisdiction of the commission shall be paid out of money in the State Highway Account in the State Transportation Fund.

The commission may (a) pay the cost of maintenance incurred on any bridge under its jurisdiction from the revenues thereof after all bonds secured by the revenues of that bridge have been redeemed and (b) provide for the cost of maintenance of any such bridge whose revenues are pledged to secure any issue of revenue bonds sold on or after January 1, 1976, from the revenues of that bridge.

SEC. 54. Section 188.9 of the Streets and Highways Code is repealed

SEC. 55. Section 189 is added to the Streets and Highways Code, to read:

189. Notwithstanding Section 188.8, the percentages specified for each state highway district on page 13798 of the Assembly Journal for June 5, 1974, for the four-year period from July 1, 1975, to June 30, 1979, shall be applied to the state transportation districts for purposes of subdivisions (b) and (c) of that section for the four-year period from July 1, 1979, to June 30, 1983.

For purposes of this section, the state transportation districts shall be identical to those state highway districts established by the Department of Public Works for administrative purposes as of June 30, 1960.

SEC. 56. Section 194 of the Streets and Highways Code is amended to read:

194. Each annual proposed budget prepared pursuant to Section 165 shall include an amount recommended to be appropriated to the Transportation Planning and Research Account in the State Transportation Fund. The amount shall, to the extent possible, equal the pro rata share of the comprehensive transportation planning duties attributable to highway and to exclusive public mass transit guideway planning and research.

SEC. 57. Section 194.5 of the Streets and Highways Code is repealed.

SEC. 57.5. Section 199.1 of the Streets and Highways Code is amended to read:

199.1. Notwithstanding Section 14533 of the Government Code, the commission shall allocate to the transit development board created by Section 120050 of the Public Utilities Code, an amount equal to the maximum authorized under Section 200 for exclusive public mass transit guideway construction purposes.

SEC. 58. Section 2233 of the Streets and Highways Code is amended to read:

2233. Amounts apportioned to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code and allocated pursuant to Section 194.5 shall be identified in the budget of the Transportation Planning and Research Account in the State Transportation Fund. Amounts reimbursed to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code shall be deposited in the State Highway Account in the State Transportation Fund and credited to the Transportation Planning and Research Account as an expense and reimbursement All such funds apportioned to the state are continuously appropriated for allocation by the commission from the Transportation Planning and Research Account to metropolitan transportation planning organizations, as defined by federal law and regulations, to perform the metropolitan transportation planning authorized by subsection (f) of Section 104 of Title 23.

SEC. 59. Section 2332 of the Streets and Highways Code is amended to read:

2332. All funds received pursuant to these federal programs shall be deposited in the State Highway Account in the State Transportation Fund. All funds apportioned to the state for such programs are appropriated for allocation by the commission in accordance with the provisions of this chapter.

SEC. 60. Section 2333 of the Streets and Highways Code is amended to read:

2333. In each annual proposed budget prepared pursuant to

Section 165, there shall be included an amount equal to the estimated apportionment available from the federal government for the programs described in Section 2331. The commission may allocate a portion of such funds each year for use on city streets and county roads. It is the intent of the Legislature that the commission allocate the total amount received from the federal government for all of the programs described in Section 2331 in such a manner that, over a period of five years, such funds are made available for use in approximately equal amounts on state highways and on local roads. In addition, it is the intent of the Legislature that the commission shall apportion for use, in financing the railroad grade separation program described in Section 190, a substantial portion of the funds received pursuant to the federal rail-highway crossings program. Notwithstanding any other provision of law, the share of any railroad of the cost of maintaining railroad crossing protection facilities funded, in whole or in part, by funds described in Section 2331 shall be the same share it would be if no federal funds were involved and the crossing protection facilities were funded pursuant to an order of the Public Utilities Commission pursuant to Section 1202 of the Public Utilities Code; and in case of dispute, the Public Utilities Commission shall determine such share pursuant to this section.

SEC. 61. Section 2358 of the Streets and Highways Code is amended to read:

2358. Funds apportioned to this state pursuant to subsection (b) (6) of Section 104 of Title 23 of the United States Code for federal urban system projects shall be allocated by the commission. Projects eligible for allocation include fringe parking projects, state highway projects, local street and highway projects, and public mass transit projects. The commission shall review the long-range planning programs for the urban system, and shall review each annual program for conformance with the long-range programs.

For a project located within the area under the jurisdiction of the San Diego Metropolitan Transit Development Board created by Section 120050 of the Public Utilities Code, the commission shall conform to the priority established for that project by the transit development board pursuant to Section 120354 of the Public Utilities Code.

SEC. 62. Article 2 (commencing with Section 30050) of Chapter 1 of Division 17 of the Streets and Highways Code is repealed.

SEC. 63. Article 2 (commencing with Section 30050) is added to Chapter 1 of Division 17 of the Streets and Highways Code, to read:

Article 2. California Transportation Commission

30050. (a) The California Toll Bridge Authority is hereby abolished, and the California Transportation Commission succeeds to, and is vested with, the duties, powers, purposes, responsibilities, and jurisdiction of the California Toll Bridge Authority.

(b) Any reference in any law or regulation to the California Toll

Bridge Authority shall be deemed to refer to the California Transportation Commission.

(c) The California Transportation Commission shall have the possession and control of all licenses, permits, leases, agreements, contracts, orders, claims, judgments, records, papers, equipment, supplies, bonds, moneys, funds, appropriations, buildings, land and other property, real or personal, held for the benefit, use, or obligation of the California Toll Bridge Authority.

SEC. 64. Sections 3 to 6, inclusive, Sections 40 to 45, inclusive, Sections 47 to 52, inclusive, and Sections 56 to 61, inclusive, of this act shall become operative on July 1, 1978.

SEC. 65. Sections 8 to 14, inclusive, Sections 16 to 26, inclusive, Sections 28 to 34, inclusive, and Sections 35, 36, 37, 53, 62, and 63 of this act shall become operative on February 1, 1978.

However, the Senate Rules Committee and the Speaker of the Assembly may appoint, and the Governor may nominate and, with the consent of the Senate, appoint, the members of the California Transportation Commission on and after January 1, 1978.

Furthermore, the California Highway Commission, the California Toll Bridge Authority, the State Aeronautics Board, and the State Transportation Board, on and after January 1, 1978, may take such steps as necessary to prepare for the transfer of their duties, powers, purposes, responsibilities, and jurisdiction to the California Transportation Commission.

SEC. 66. Section 54 of this act shall become operative on July 1, 1979, if (a) the California Transportation Plan is adopted by such date and (b) the California Transportation Commission finds that abolishing the county minimum requirements in the allocation of state highway construction funds would give equal consideration to the transportation needs of all areas of the state and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan.

SEC. 67. Section 55 of this act shall become operative if (a) the California Transportation Plan is adopted and (b) the California Transportation Commission finds that the application during the four-year period from July 1, 1979, to June 30, 1983, of the state highway district percentages established for the four-year period from July 1, 1975, to June 30, 1979 for the allocation of state highway construction funds would give equal consideration to the transportation needs of all areas of the state and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan.

SEC. 68 It is the intent of the Legislature, if this bill and Assembly Bill No. 1237 are both chaptered and become effective January 1, 1978, both bills amend Section 130252 of the Public Utilities

Code, and this bill is chaptered after Assembly Bill No. 1237, that the amendments to Section 130252 proposed by both bills be given effect and incorporated in Section 130252 in the form set forth in Section 31 of this act. Therefore, Section 31 of this act shall become operative only if this bill and Assembly Bill No. 1237 are both chaptered and become effective on or before January 1, 1978, both amend Section 130252, and this bill is chaptered after Assembly Bill No. 1237, in which case Section 30 of this act shall not become operative.

SEC. 69. Notwithstanding Section 9605 of the Government Code, if Senate Bill No. 869 of the 1977–78 Regular Session of the Legislature is chaptered before this act and amends Section 188.9 of the Streets and Highways Code, and Section 54 of this act becomes operative, as provided in Section 66 of this act, Section 188.9 of the Streets and Highways Code as amended by Senate Bill No. 869 shall remain operative until July 1, 1979, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends that date.

CHAPTER 1107

An act to add Sections 12305.5 and 14051.5 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 27, 1977 Filed with Secretary of State September 27, 1977]

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

SECTION 1. Section 12305.5 is added to the Welfare and Institutions Code, to read:

12305.5. (a) Notwithstanding any other provision of this chapter, any person who:

(1) Was once determined to be disabled in accordance with Section 1614 of Part A of Title XVI of the Social Security Act (Section 1382c, Title 42, United States Code), and

(2) Continues to suffer from the physical or mental impairments which were the basis of the disability determination required under paragraph (1), and

(3) Requires in-home supportive care of at least 20 hours per week to carry out any or all of the following:

(A) Routine bodily functions, such as bowel or bladder care.

(B) Dressing.

(C) Preparation and consumption of food.

(D) Moving into and out of bed.

(E) Routine bed bath.

(F) Ambulation.

(G) Any other function of daily living as determined by the

director;
shall be considered to be disabled, for the purposes of this article only, even though such person is engaged in substantial gainful activity. Regardless of whether such person has excess income, such person shall be eligible to receive payment under this article to purchase in-home supportive services if his income is insufficient to provide for the cost of such care, and he is otherwise qualified under this article.

(b) For purposes of this section, "substantial gainful activity" means work activity considered to be substantial gainful activity under applicable federal regulations adopted pursuant to Section 1614 of Part A of Title XVI of the Social Security Act.

(c) The determination of continued impairments and the need for in-home supportive care shall be supported by medical reports when requested. Such reports shall be provided at the expense of the department.

(d) This section shall not be construed as creating any entitlement to state supplementation pursuant to Section 12150.

SEC. 2. Section 14051.5 is added to the Welfare and Institutions Code, to read:

14051.5. (a) "Medically needy person" also means any person who receives in-home supportive services pursuant to Section 12305.5 and whose income and resources are insufficient to provide for the costs of health care or coverage.

SEC. 3. The provisions of this act shall be subject to a three-year trial period for purposes of evaluation and review. Such three-year period shall commence on the operative date of this act. During such period, the State Department of Benefit Payments shall conduct an assessment of the following:

(a) The extent to which aid and services provided pursuant to this act remove disincentives to employment now embodied in federal law and thereby encourage disabled persons eligible under Chapter 3 (commencing with Section 12000), Part 3, Division 9 of the Welfare and Institutions Code to secure employment suited to their disability.

(b) The numbers and types of disabled persons in need of such aid and services including analysis of factors constituting such need.

(c) The administration and delivery of such aid and services and the cost effectiveness, advantages, disadvantages, problems and issues related thereto.

A report documenting results of the assessment and providing recommendations regarding the continuation of the provisions of this act shall be submitted by the department to the Speaker of the Assembly and the Senate Rules Committee no later than January 1, 1981. Unless the Legislature, on the basis of such report, acts to repeal or amend the provisions of this act, this act shall continue in full force and effect.

SEC. 4. The sum of two hundred fifty-seven thousand five hundred dollars ($257,500) is hereby appropriated from the General

Fund to the State Controller for allocation and disbursement in accordance with the following schedule:

(a) Two hundred fifty-one thousand dollars ($251,000) to the State Department of Health for its additional costs incurred pursuant to this act.

(b) Six thousand five hundred dollars ($6,500) to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to such act.

CHAPTER 1108

An act to add Sections 8160.1, 8164.1, 8164.2, 8164.3, 8169, 8169.1, 8169.2, 8169.3, and 8169.4 to, to repeal and add Sections 8160, 8163, and 8164 to, the Government Code and to repeal Sections 2, 3, 4, 4.5, 5, 6, 7, and 8 of Chapter 1242 of the Statutes of 1963, relating to Capitol area planning, and making an appropriation therefor.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 8160 of the Government Code is repealed.

SEC. 2. Section 8160 is added to the Government Code, to read:

8160. The plan for location of state buildings and other improvements in the central city of the City of Sacramento, approved by the director on March 15, 1977, and titled "Capitol Area Plan," is the official state master plan for development in the central city. It is hereby designated the Capitol Area Plan It shall be a guide for future state policy in the expansion of the state's physical plant and in the locating of state buildings and other facilities in the metropolitan area.

Any changes in the objectives of the Capitol Area Plan shall be approved by a majority vote of both houses of the Legislature.

SEC. 3. Section 8160.1 is added to the Government Code, to read.

8160.1. The following terms, used in this article, shall be given the following meanings:

(a) "Metropolitan area" means the greater metropolitan Sacramento area, including the City of Sacramento, the County of Sacramento, and the eastern part of Yolo County.

(b) "Central city" means that area of the City of Sacramento bounded on the north by the American River, on the west by the Sacramento River, and on the south and east by Interstate Highway 80.

(c) "Core area" means that area of the City of Sacramento within the area bounded by "G" Street on the north, "R" Street on the south, Fifth Street on the west, and Seventeenth Street on the east.

(d) "Capitol area" means that area of the City of Sacramento which is bounded on the north by "L" Street, on the south by "R" Street, on the west by Fifth Street, and on the east by Seventeenth Street, and referring specifically to those blocks within those boundaries containing state-owned properties.

(e) "Department" means the Department of General Services.

(f) "Director" means the Director of General Services.

SEC. 4. Section 8163 of the Government Code is repealed.

SEC. 5. Section 8163 is added to the Government Code, to read:

8163. The Capitol Area Plan was established for the orderly development of the state's facilities in the metropolitan area and the department shall be continuously responsible for necessary revisions and for formulating and carrying out long-range development plans.

(a) When considering recommendations for changes in the Capitol Area Plan and in formulating the long-range plans, the department shall take into consideration the following factors:

(1) The needs of the state, the City of Sacramento, and the County of Sacramento and eastern Yolo County, relative to the location and design of residential, commercial, and office buildings to be constructed, rehabilitated and restored, parking and transit facilities, traffic or fountains as may be deemed desirable for the beautification and livability of the area; and

(2) The ordinances, plans, requirements, and proposed improvements of the City of Sacramento and the County of Sacramento and eastern Yolo County, including but not limited to, zoning regulations, population trends, plans for regional transit development, and the general plan of the City of Sacramento; and

(3) Any other factors which bear upon the orderly, integrated, and cooperative development by the state, the City of Sacramento, and the County of Sacramento and eastern Yolo County, of property in the metropolitan area.

(b) Specific building plans for the location of state buildings, residential housing, parking structures, and other improvements on state-owned land in the core area shall be responsive to the following program goals:

(1) To supply an additional two million gross square feet of office space which will be available for state occupancy by the year 2000. This office space shall be within or contiguous to the core area; and

(2) To develop parking and transportation facilities in the metropolitan area to support the state's needs in the core area as projected in the Capitol Area Plan; and

(3) To expand the supply of private and publicly owned housing in the Capitol area to accommodate approximately 3,500 people by the year 2000.

SEC. 6. Section 8164 of the Government Code is repealed.

SEC. 7. Section 8164 is added to the Government Code, to read:

8164. Commencing January 1, 1979, the department shall report to the Joint Legislative Budget Committee and each Member of the Legislature annually. The report shall list leases by the state to others

for residential or commercial purposes in the Capitol area; sales or building construction initiated or completed by the state in the metropolitan area expenditures under authority of Section 8169.1, by type; transactions and operations of joint powers agencies under authority of Section 8169.4, since the last report and shall set forth the department's appraisal of the degree to which such projects conform to the Capitol Area Plan. The report shall include detailed information on all such items.

SEC. 8. Section 8164.1 is added to the Government Code, to read:

8164.1. There is in state government a Capitol Area Committee consisting of nine members who shall be appointed in the following manner:

(a) Four members of the committee shall be appointed by the Governor of which at least one member shall be appointed from a list of three candidates submitted by the City of Sacramento and at least one member shall be appointed from a list of three candidates submitted by the County of Sacramento. Two members shall be appointed for a term expiring December 31, 1979, and two for a term expiring December 31, 1981.

(b) Two members shall be appointed by the Speaker of the Assembly, one of whom may be a Member of the Assembly, and two members shall be appointed by the Senate Rules Committee, one of whom may be a Member of the Senate. Legislative members of the committee shall meet and, except as otherwise provided by the Constitution, advise the department to the extent that such advisory participation is not incompatible with their respective positions as Members of the Legislature. Of the four appointments by the Legislature, two shall be appointed for a term expiring December 31, 1979, and two for a term expiring December 31, 1981.

(c) One shall be appointed by and serve at the pleasure of the director.

Subsequent appointments pursuant to subdivisions (a) and (b) shall be for terms of four years, ending on December 31st of the fourth year after the end of the prior term, except that appointments to fill vacancies occurring for any reason other than the expiration of the term shall be for the unexpired portion of the term in which they occur. The members of the board shall hold office until their successors are appointed and qualify.

The members of the committee shall not receive compensation from the state for their services under this article but, when called to attend a meeting of the committee, shall be reimbursed for their actual and necessary expenses incurred in connection with such meeting in accordance with the rules of the State Board of Control.

SEC. 9. Section 8164.2 is added to the Government Code, to read:

8164.2. The committee shall elect a chairperson. The committee shall meet at least quarterly or upon the call of the chairperson or the written request of any three members.

SEC. 10. Section 8164.3 is added to the Government Code, to read:

8164.3. It is the purpose of the committee to independently review

the reports of the department to the Legislature and counsel and advise the department in the carrying out of its responsibilities related to the Capitol Area Plan. The committee may submit separate comments on the departmental reports on the Capitol Area Plan to the Legislature. The committee shall involve a broad cross section of interested citizens in the form of an advisory body. The advisory body shall serve without compensation.

SEC. 11. Section 8169 is added to the Government Code, to read:

8169 The director may lease the real property owned by the state within the core area, and not under the jurisdiction of any other state agency, for purposes consistent with the Capitol Area Plan and the management thereof, for such term and upon such terms and conditions as the director may deem appropriate except that said lease shall provide that any property subsequently leased by a joint powers authority for which a lease or rental for a period of five years or more is contemplated shall be advertised and awarded utilizing for the purpose the same procedure followed by the director for other state properties. The director's authority to lease real property under this section shall include, but not be limited to, the authority to lease portions of buildings and facilities occupied or to be occupied in part by state agencies, to private parties and other public agencies for office, residential, parking and commercial uses consistent with the Capitol Area Plan.

With respect to residential leases, the director's authority included in this section shall not extend beyond the Capitol area. The director shall assure that tenants residing within the Capitol area are not involuntarily displaced as a result of leases executed after the effective date of this section. The supply of housing available to lower income households, based on the 1975 special census, at affordable rents shall not be reduced within the area. The director's authority shall also include the authority to enter into long-term leases not to exceed 60 years and to pledge, subordinate, hypothecate or to permit the assignment of such leases in connection with financing to be obtained by any lessee or sublessee.

The Director of General Services may not execute a lease agreement for a term lease of more than five years between the state and another entity, enter into a joint powers agreement, or issue revenue bonds, notes of evidences of indebtedness offered by the joint powers authority, if the agreement concerns state-owned property in the County of Sacramento or the County of Yolo, unless not less than 30 days prior to its execution he notifies the chairman of the committee in each house of the Legislature which considers appropriations, the chairman of the appropriate policy committee in each house, and the Chairman of the Joint Legislative Budget Committee, or his designee, in writing of his intention to execute such an agreement. The chairman of such committee or his designee may determine a lesser notification period prior to execution. A copy of such notice shall be provided to any person who requests the director in writing for such notice.

The Legislature does hereby find that it will be of broad public benefit to lease some residential units in the Capitol area to low- and moderate-income persons for less than prevailing market rental rates. Therefore, the director is authorized to rent or to provide for the rental of residential facilities to low- and moderate-income persons, as defined in Section 41056 of the Health and Safety Code, for less than market rental rates and to enter into long-term ground leases at nominal or below market rental rates when the director deems it will benefit low- and moderate-income persons.

All leases of state-owned property in the core area to any private person for other than parking shall be subject to possessory interest taxes in accordance with Chapter 1 (commencing with Section 101) of Part 1 of Division 1 of the Revenue and Taxation Code.

SEC. 12 Section 8169.1 is added to the Government Code, to read·

8169.1. The director may maintain, repair, alter, sell, remove, or demolish buildings or other structures within the Capitol area when the director deems it desirable to do so, and may construct such structures, facilities, alterations, and improvements as are consistent with the Capitol Area Plan. All moneys collected pursuant to this section and Section 8169 shall be deposited in the General Fund as provided by Section 15863 All moneys now and hereafter deposited in said account shall be available for the purposes set forth in Section 15863, and for the payment of all costs and expenses, including administrative costs and expenses, incurred in performing any work, acts or functions authorized by Sections 8160 to 8169.4, inclusive, including maintenance, alterations, repairs, demolition, minor construction, purchase of furnishings, relocation of tenants, and the implementation of all other policies and programs set forth in the Capitol Area Plan, such as, but without being limited to, parking and transit programs; provided, however, that as of July 1, 1982, all moneys collected pursuant to this section and Section 8169 shall be deposited in the General Fund and are continuously appropriated to the Department of General Services for the payment of all costs and expenses, including administrative costs and expenses, incurred in performing any of the above referred to work, acts or functions and the implementation of all policies and programs set forth in the Capitol Area Plan Commencing July 1, 1984, any unneeded balance in the appropriation made by this section shall be transferred by the Controller on order of the Director of General Services to the unencumbered balance of the General Fund.

SEC. 13. Section 8169.2 is added to the Government Code, to read:

8169.2. The director shall promulgate regulations for relocation payments and assistance consistent with the requirements of Sections 41397 and 41557 of the Health and Safety Code.

SEC 14. Section 8169.3 is added to the Government Code, to read:

8169 3. Construction of parking structures in the core area on state-owned property for the use of the state pursuant to Section 14671.5 is hereby authorized by the Legislature.

SEC. 15. Section 8169.4 is added to the Government Code, to read:

8169.4. The department and the City of Sacramento are authorized to enter into an agreement pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 to accomplish any of the purposes or objectives set forth in the Capitol Area Plan as provided for by this article. For the purposes of Section 6502, the power to accomplish any such purpose or objective shall be considered to be a power common to the contracting parties. The department may provide moneys for the operation of the joint powers authority from the funds appropriated by Section 8169.1, or from any other moneys available for such purpose, and the director may lease any of the property in the core area to the authority, with or without consideration, and upon such terms and conditions as the director deems necessary to accomplish the purposes and objectives set forth in the Capitol Area Plan. The authority may issue revenue bonds, notes or evidences of indebtedness as provided in Article 2 (commencing with Section 6540) of Chapter 5 of Division 7 of Title 1.

SEC. 16. Section 2 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 17. Section 3 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 18. Section 4 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 19. Section 4.5 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 20. Section 5 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 21. Section 6 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 22. Section 7 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 23. Section 8 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 24. The sum of one hundred seventy-five thousand dollars ($175,000) is hereby appropriated to the Department of General Services from the General Fund for payment of costs and expenses incurred in performing any acts or functions authorized by Sections 8160 to 8169.4, inclusive, of the Government Code, such as, but without being limited to, continued planning and the funding of the operation of the joint powers authority. One hundred thirty-five thousand dollars ($135,000) of said sum shall be reimbursed to the unencumbered balance in the General Fund from any surplus which may become available in the funds appropriated by Section 8169.1 of the Government Code.

CHAPTER 1109

An act making an appropriation for the state park system, and in this connection amending and supplementing the Budget Act of 1977 (Ch. 219, Stats. 1977) by adding Section 2.9B thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

I am reducing the amount appropriated from the General Fund by Section 2 of Assembly Bill No 924 from $12,450,000 to $6,725,000

The balance of funding will provide for the highest priority coastal acquisitions, not currently funded from other sources These include schedule (a) Westport-Union Landing SB extension—$2,500,000, (b) Greenwood Creek (Mendocino County)—$375,000, (c) Andrew Molera SP extension—$2,750,000, (d) Haskell's Beach—$500,000, (e) La Piedra Beach extension (Malibu)—$500,000, and a reduced amount for schedule (h) planning and acquisition costs of $100,000

I am reducing the amount appropriated from the State, Urban and Coastal Park Fund from $53,804,000 to $45,904,000 by making the following reductions and deletions

Reducing schedule (h) from $8,000,000 to $6,000,000 This property is overvalued at $8,000,000

Reducing schedule (k) from $7,850,000 to $5,500,000 Because of constraint language precluding the use of these funds for acquisition of any lands "lying seaward of Malibu Road", I recommend the proposed appropriation be reduced to reflect the estimated value of the upland areas only

Reducing schedule (s) from $1,250,000 to $500,000 and deleting schedule (t) The Leo Carrillo upland property offers little in the way of opportunities for recreational use because of topography

With these reductions, I approve Assembly Bill No 924

EDMUND G BROWN JR , Governor

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

SECTION 1. (a) The Legislature, in enacting the California Coastal Act of 1976, declared:

(1) That the California Coastal Zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

(2) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

(3) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and destruction.

(b) The Legislature hereby finds and declares that:

(1) It is the policy of the state to preserve, protect, and where possible, to restore coastal resources which are of significant recreational or environmental importance for the enjoyment of

present and future generations of persons of all income levels, all ages, and all social groups.

(2) Parks, beaches, recreation areas, and historical resources contribute not only to a healthy physical and moral environment, but it is in the public interest for the state to acquire additional publicly owned lands along the California Coast

(c) The Legislature hereby further finds and declares that there are not sufficient funds currently available to acquire desirable additional coastal property, and that it is appropriate to transfer General Fund moneys to the Bagley Conservation Fund for this purpose.

SEC. 2. The sum of twelve million four hundred fifty thousand dollars ($12,450,000) is hereby appropriated from the General Fund to the Bagley Conservation Fund.

SEC. 3. The sum transferred to the Bagley Conservation Fund pursuant to Section 2 of this act is hereby appropriated to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for the acquisition of the following lands for the state park system in accordance with the following schedule:

Schedule:

(a) Westport-Union Landing SB extension—land acquisition $2,500,000

(b) Elk Creek and Greenwood Creek (Mendocino County)—land acquisition $750,000
provided, that the funds appropriated by this subdivision may be expended only for the acquisition of lands between the Pacific Ocean and State Highway Route 1

(c) Andrew Molera SP extension—land acquisition $2,750,000

(d) Haskell's Beach—land acquisition..... $500,000

(e) La Piedra Beach extension (Malibu)—land acquisition $500,000

(f) Torrey Pines SB extension—land acquisition $850,000

(g) Augmentation for increases in land value for any coastal acquisition project funded from the Bagley Conservation Fund pursuant to any appropriation $4,300,000

(h) Planning and acquisition costs..... $300,000
provided, that none of the funds appropriated for acquisition of parklands by this section may be encumbered for the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive

rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General

SEC. 4. Acquisitions made pursuant to Section 3 shall be subject to the Property Acquisition Law (commencing with Section 15850 of the Government Code).

SEC 5 Section 2.9B is added to the Budget Act of 1977 (Ch 219, Stats. 1977), to read

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

Sec 2 9B The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1977–78, 1978–79, and 1979–80 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund

CAPITAL OUTLAY

Resources

443.2B—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivision (c) of Section 5096 124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund 53,804,000

Schedule:

(a) Carpinteria SB—acquisition	887,000
(b) Doheny SB—Dana Point Palisades —acquisition.....	4,000,000
(c) El Capitan SB—acquisition.....	880,000
(d) Garrapata Beach—acquisition	5,360,000
(e) Gaviota SP—acquisition.....	3,150,000
(f) Hunter's Lagoon acquisition.....	1,352,000
(g) Pygmy Forest Ecological Staircase (Jughandle Creek)—augmentation of land acquisition	900,000

provided, that the funds appropriated for this project may be expended only in the following manner and only for acquisition affecting the following parcels as set forth on a map entitled "Pygmy Forest Acquisition Plan," which is Sheet 2 of Drawing No. 14168, as approved by the Department of Parks and Recreation on November 16, 1974:

(1) Only unimproved portions of Par-

cel 31 may be acquired.
(2) All of Parcel 10 may be acquired.
(3) All of the coastal shelf lying northerly of Parcel 8, to and including Bromley Creek, and Mendocino County Assessor's Parcels Numbers 017-360-23 and 017-360-24, may be acquired.
(4) No acquisition may be made in Parcel 6, but lands already acquired by the department in Parcel 6 shall be retained.

(h) Lakes Earl and Talawa—acquisition 8,000,000
(i) McNee Ranch—acquisition 1,000,000
(j) Ten-mile Dunes—acquisition 1,000,000
(k) Malibu Bluff—acquisition 7,850,000
provided, that none of the funds appropriated for this project may be encumbered for the acquisition of any land lying seaward of Malibu Road.
(*l*) Manresa SB—acquisition 1,000,000
(m) Morro Bay SP—acquisition 3,000,000
(n) South Monterey Bay Dunes—acquisition 6,000,000
(o) Torrey Pines SR—acquisition..... 1,775,000
(p) Fort Ross SHP extension—acquisition 900,000
(q) Sonoma Coast SB extension (Willow Creek and Brown Ranch)—acquisition 1,500,000
(r) Sunset SB extension—acquisition 200,000
(s) Leo Carrillo SB (Yerba Buena Beach)—acquisition..... 1,250,000
(1) Beach property owned by Department of Transportation 500,000
(2) Upland property 750,000
(t) Leo Carrillo SB extension—acquisition 2,800,000
(u) Batiquitos Lagoon—acquisition 1,000,000
provided, that none of the funds appropriated by this item for the projects set forth herein shall be available for encumbrance unless and until such projects are reviewed by the Secretary of the Resources Agency.

Provided, further, that none of the funds appropriated for acquisition of parklands by this item may be encumbered for the purchase of real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

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

In order that lands that possess exceptional environmental and aesthetic values and are threatened by wholly incompatible development may be publicly acquired at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1110

An act to amend Sections 20930 and 20937 of, and to add Sections 21222.85 and 21222.86 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 20930 of the Government Code is amended to read:

20930. "Public service" for purposes of this article means the following:

(a) Employment of the state or a contracting agency while not a member of this system, but after persons employed in the status of the member were eligible for membership in this system.

(b) Employment of the state or a contracting agency while the employee was excluded from membership because of serving on a part-time basis or because of his failure to exercise his right of election of membership under Section 20360, 20361 or 20364.

(c) Employment of the state or a contracting agency while the employee was excluded from membership in an employment in which persons since have become eligible for membership and which is not creditable to the member under other provisions of this part.

(d) Employment in the State Emergency Relief Administration or the State Relief Administration subsequent to March, 1933, regardless of the source of the compensation paid for such employment.

(e) Employment as an academic employee of the University of California prior to 1963; provided, however, that any member electing to receive credit for such public service shall in addition to other contributions required by this article contribute an amount equal to the contributions which would have been made on his behalf by the state had he been in membership during such employment, assuming that the state rate of contribution in effect at the time of election has been in effect during such employment

(f) Employment of the state in which the person was not eligible for membership in the system if such ineligibility was solely because his compensation was paid from other than state-controlled funds; provided, however, that time spent in work as a work relief recipient under programs such as, but not limited to, the Works Progress Administration, the Civil Works Administration, the Federal Emergency Relief Administration, the National Youth Administration, and the Civilian Conservation Corps, shall not constitute public service.

(g) Employment in a function formerly performed by a public agency other than a contracting agency and assumed by a contracting agency where the employees who performed such functions are or were transferred to or employed by such contracting agency without change in occupation or position

(h) Time during which a state employee was absent from state service on war relocation leave.

"War relocation leave" means the period of absence from state service occasioned by the evacuation and relocation of a member pursuant to orders issued by the commanding officer of the Western Defense Command in March 1942, for the evacuation of persons of Japanese descent from such area, where the member was in state service 90 days before or after March 5, 1942, and who later returned to state service. War relocation leave of a member shall include the period of time from the separation of a member from state service until his return to state service or July 1, 1947, whichever is earlier.

(i) Time during which a member is excused from performance of his duties on approved leave for the purpose of service of up to two years with a university, college, local, state, federal or foreign governmental agency or nonprofit organization, if he returns to the employment from which the leave was granted, provided, however, that any member electing to receive credit for such public service shall in addition to contributions otherwise required by this article

contribute an amount equal to the contribution that would have been made by his employer in respect to him had he not been absent, assuming that the employer rate of contribution in effect at the time of election had been in effect during the absence.

(j) Absence from state service because of illness which arose out of and in the course of employment and for which the member received temporary disability benefits under the Labor Code during such absence and did not receive full compensation as distinguished from such disability benefits for the period of absence.

(k) Civilian service as an employee or officer of an agency of the government of the United States which performed functions the same as or substantially similar to those performed by this state prior to January 1, 1942, and which were transferred from the state to such agency, including military service in any branch of the armed forces of the United States performed by an individual on military leave of absence from such federal employment, if all the following conditions exist:

(1) Prior to performing such federal service he was employed by the state.

(2) He was laid off from state service or would have been so laid off if he had not been absent in military service because of the transfer of the functions of the state to an agency of the United States government.

(3) Subsequent to his layoff from state service he was employed by the United States government in an agency performing functions the same as or substantially similar to those of the state agency from which he was laid off

(4) After his separation from federal service, he was employed by a state agency or

(5) In lieu of subparagraphs (1), (2), and (3), the United States government pays to the state or an agency of the state, funds equal to contributions which would have been made by the state had the member been in state service for the period of his public service with respect to members who were not employed by the state prior to entering such federal employment or whose state service prior to entering such federal employment was terminated for reasons other than the transfer of the function

(*l*) Employment in a district, prior to the time the district became a subsidiary district of a city, of a person who was employed by the city following such reorganization to render service to the district and who became a member in such employment

(m) Time during which an employee was absent from state service because of illness arising out of and in the course of employment and which is certified by the Workmen's Compensation Appeals Board and for which the employee was not compensated

SEC. 2. Section 20937 of the Government Code is amended to read:

20937. A contracting agency may elect to refund all or a portion of the employer contributions that were made by members or

retired persons in order to receive credit for war relocation leave. The refund shall be a charge against the agency's current service reserve account. The refund may be made only to such a member or retired person or the spouse of such persons and only during the 12 months following the date that this section is made applicable to the employees of a contracting agency

Notwithstanding Section 20740, a contracting agency which elects prior to July 1, 1979, to become subject to this section shall be an "employer" for purposes of Chapter 6 (commencing with Section 20740).

SEC. 2.5. Section 20937 of the Government Code is amended to read:

20937. A contracting agency or school employer may elect to refund all or a portion of the employer contributions that were made by members or retired persons in order to receive credit for war relocation leave. The refund shall be a charge against the agency's current service reserve account. The refund may be made only to such a member or retired person or the spouse of such persons and only during the 12 months following the date that this section is made applicable to the employees of a contracting agency or school employer.

Notwithstanding Section 20740, a contracting agency or school employer which elects prior to July 1, 1979, to become subject to this section shall be an "employer" for purposes of Chapter 6 (commencing with Section 20740)

SEC. 3 Section 21222.85 is added to the Government Code, to read:

21222.85. In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21222, and notwithstanding the limitation on such increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to January 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

Period during which retirement or death occurred	Percentage
On or before December 31, 1965	15%
12 months ending December 31, 1966	14%
12 months ending December 31, 1967	13%
12 months ending December 31, 1968	12%
12 months ending December 31, 1969	9%
12 months ending December 31, 1970	6%
12 months ending December 31, 1971	5%
12 months ending December 31, 1972	4%
12 months ending December 31, 1973	3%

The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and

the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC 4 Section 21222.86 is added to the Government Code, to read:

21222.86. In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21222, and notwithstanding the limitation on such increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to July 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred.

Period during which retirement or death occurred	Percentage
On or before December 31, 1965	7%
12 months ending December 31, 1966	6%
12 months ending December 31, 1967	5%
12 months ending December 31, 1968	4%
12 months ending December 31, 1969	3%
18 months ending June 30, 1971	2%
36 months ending June 30, 1974	1%

The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for

approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 324 are both chaptered and become effective on or before January 1, 1978, both bills affect Section 20937 of the Government Code, and this bill is chaptered after Assembly Bill No. 324, that Section 20937 of the Government Code, as affected by Assembly Bill No. 324, be further amended on the effective date of this act in the form set forth in Section 2.5 of this act to incorporate the changes in Section 20937 proposed by this bill. Therefore, if this bill and Assembly Bill No. 324 are both chaptered and become effective on or before January 1, 1978, and Assembly Bill No. 324 is chaptered before this bill and affects Section 20937, Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

CHAPTER 1111

An act to amend Sections 1685, 688, 1689, 1691, 1692.1, 1695, 1700, and 1751 of, and to repeal Sections 1689.5, 1690, 1692, 1696, and 1810.7 of, the Insurance Code, relating to certificates of convenience.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 1685 of the Insurance Code is amended to read:

1685. The commissioner may issue to a person eligible therefor a certificate of convenience to act as:

(a) Any type of a licensee under this chapter or Chapter 6, 7 or 8 of this part or Part 5 of Division 2 of this code to administer the business of a licensed person who has died or who has been declared incompetent by the judgment of a court of competent jurisdiction. Such certificate of convenience may be denominated an estate certificate of convenience;

(b) Any type of a licensee under this chapter or Chapter 6, 7 or 8 of this part or Part 5 of Division 2 of this code to conserve the business of a licensed natural person who enters the military service of the United States or to conserve the business of an organization under the conditions specified in Section 1697. Such certificate of convenience may be denominated a military service certificate of convenience,

(c) An industrial debit collection certificate holder to transact industrial life and industrial disability insurance.

(1) "Industrial life insurance" means life insurance with an

aggregate face amount sold to any one insured and in force at any one time in an amount not exceeding ten thousand dollars ($10,000); premiums are payable at least monthly; premiums are collected in person and not by mail or otherwise by the industrial debit collection certificate holder with a written receipt delivered to the insured, and the words "INDUSTRIAL LIFE POLICY" or "MONTHLY DEBIT ORDINARY" are printed on the policy as part of the descriptive matter.

(2) "Industrial disability insurance" means disability insurance with premiums payable at least monthly at a rate not greater than fifteen dollars ($15) per person, per month, premiums are collected in person and not by mail or otherwise by the industrial debit collection certificate holder with a written receipt delivered to the insured and with the words "INDUSTRIAL POLICY" printed on the policy as part of the descriptive matter.

(3) An industrial debit collection certificate holder may collect premiums on insurance policies not solicited by him so long as the premiums are collected in person and not by mail or otherwise by the certificate holder at least once a month and the insured is issued a written receipt for the premium payment thereof.

(4) An industrial debit collection certificate holder shall be subject to the provisions of this code regulating the conduct of life and disability agents.

(d) An insurance agent;

(e) An insurance solicitor;

(f) A life and disability agent;

(g) A life only agent,

(h) A disability only agent;

Certificates of convenience issued pursuant to subdivisions (c), (d), (e), (f), (g), and (h) hereof may be denominated certificates of convenience pending examination

SEC. 2. Section 1688 of the Insurance Code is amended to read:

1688. To be eligible for a certificate of convenience to act as an industrial debit collection agent, a person must be an applicant for a permanent license to act as a life only agent, disability only agent, or life and disability agent. An industrial debit collection agent certificate shall be issued only to act in the capacity for which such license is sought.

SEC 3. Section 1689 of the Insurance Code is amended to read:

1689 (a) A person is not eligible for a certificate of convenience pending examination if such person has ever been issued in California a certificate of convenience or permanent license, nor unless appointing insurers or in the case of a solicitor the appointing agent or broker, certify to the commissioner that such person is enrolled in and will pursue a course of study and instruction previously approved by the commissioner.

(b) In the event such applicant obtains more than one appointment, all appointing insurers, agents or brokers shall certify that the applicant is enrolled in, and pursues, such training course.

Each appointing insurer, agent or broker subsequently appointing the applicant shall be equally responsible for the continuation of such study and instruction.

SEC. 4. Section 1689.5 of the Insurance Code is repealed.

SEC. 5. Section 1690 of the Insurance Code is repealed.

SEC. 6. Section 1691 of the Insurance Code is amended to read

1691 (a) No training course may be used to qualify an applicant for a certificate of convenience unless it is first approved by the commissioner. Before approving any such course the commissioner shall be satisfied that it meets all the following requirements.

(i) That it covers the fundamentals of insurance, insurance regulation, and instruction in those classes of insurance in which the applicant will be licensed.

(ii) That it contains a system of examinations or progress checks whereby it can be determined whether the person is taking the course in good faith and obtaining information and training. Such examinations or progress checks shall be in writing, be completed by the certificate holder, and be kept on file in the state for a period of two years

(b) The approval of any such course of study and instruction may be withdrawn by the commissioner if he finds after notice and hearing that:

(i) Such course as administered does not meet the requirements for its approval; or

(ii) The content of such course is not then adequate to meet the requirements hereinabove set forth.

(c) Upon withdrawal of approval of such course the commissioner shall after notice and hearing forthwith call all holders of certificates of convenience who are enrolled in such course for examination and shall not issue any certificate of convenience to any person enrolled in such course until the course has been revised, resubmitted to, and reapproved by the commissioner.

SEC 7. Section 1692 of the Insurance Code is repealed.

SEC. 8. Section 1692.1 of the Insurance Code is amended to read:

1692.1. (a) In the case of a solicitor, the privilege of an insurer, agent, or broker to certify to the enrollment of applicants in any course of study and instruction pursuant to Section 1689 shall be automatically suspended without any action by the commissioner whenever more than 66⅔ percent of its holders of certificates of convenience during the calendar year fail to qualify for permanent licenses during a period of six months following issuance of a certificate of convenience to each such holder. Any suspension shall continue until the commissioner is satisfied that the insurer, agent, or broker has taken adequate action to prevent a recurrence of the failure to qualify the requisite percentage of certificate of convenience holders for permanent licenses.

(b) Each insurer, agent, or broker shall keep and maintain complete records on each appointed certificate of convenience holder pursuant to Section 1689 Each insurer shall file annually with

the commissioner on or before August 15 a written report which shall contain:

(1) The number of certificate of convenience holders appointed during the preceding calendar year.

(2) The number of certificate of convenience holders who qualified for permanent licenses within the specified six-month period

(3) The percentage of certificate of convenience holders who qualified for permanent licenses within the specified six-month period.

(c) Any insurer, or agent or broker in the case of solicitors who fails to report on or before August 15 or who files an incomplete report shall automatically be suspended until a complete report is filed in accordance with subdivision (b). All suspensions pursuant to this section shall commence on the final date such report is required to be filed. During any period of suspension of such privilege such insurer, agent or broker is also prohibited from appointing any holder of a certificate of convenience appointed by another insurer, agent or broker The commissioner may, after notice and hearing suspend the privilege of any parent, subsidiary, affiliate or controlled insurer, agent or broker to prevent avoidance of such suspension.

(d) At the time of filing the written report required by this section, an insurer, agent, or broker which has failed to qualify the required percentage of certificate of convenience holders for permanent licenses may as a part of the report:

(1) Furnish written evidence of mitigating relevant facts; or

(2) Furnish written evidence of corrective action taken, or a written description of action proposed, which should result in future compliance with this section, or

(3) Request termination of the automatic suspension for specified reasonable cause; or

(4) Request that a hearing be held to determine whether the automatic suspension should be annulled or confirmed.

(e) The commissioner may after notice and hearing stay, annul, reduce, terminate or confirm the time of the automatic suspension otherwise required in this section upon a showing, satisfactory to the commissioner, that there is good cause therefor, and that corrective action has been taken to prevent a recurrence of the failure to qualify the requisite percentage of certificate of convenience holders for permanent licenses Such preventive measures shall include the establishment of procedures both to assure proper training to enable certificate holders to pass the qualifying license examination and to insure proper selection of prospective certificate holders to the end that a reasonable proportion of those selected will in good faith pursue the course of study and pass the qualifying examination

(f) This section shall not apply to an insurer or agent or broker in the case of solicitors, during any calendar year in which such insurer, agent or broker appointed 25 or fewer such certificate of convenience holders.

(g) Any hearing under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(h) The commissioner's power of termination of the certificate of convenience privilege pursuant to Section 1692.1 shall be exercised when less than 50 percent of the certificate of convenience holders so certified by the insurer fail to qualify for permanent licenses during the calendar year beginning January 1, 1979. Such power of termination shall be exercised when less than 75 percent of the certificate of convenience holders so certified by the insurer fail to qualify for permanent licenses during the calendar year beginning January 1, 1980. Beginning January 1, 1981, the commissioner shall not issue certificates of convenience.

This subdivision shall not apply to certificates of convenience issued pursuant to Section 1685, subdivisions (a), (b), (c), (d) (except any certificate holder authorized to transact disability insurance), and (e) (except any certificate holder authorized to transact disability insurance).

SEC. 9 Section 1695 of the Insurance Code is amended to read:

1695 A certificate of convenience to act as an industrial debit agent or pending examination expires at one of the following times, whichever occurs first:

(a) Two days after the mailing of notice of failure of the qualifying examination; or

(b) Six months after the issuance of the certificate of convenience.

SEC. 10. Section 1696 of the Insurance Code is repealed.

SEC. 11. Section 1700 of the Insurance Code is amended to read:

1700. If the holder of any certificate of convenience pending examination fails the qualifying examination by reason of his failure to appear for examination, the commissioner may after notice and hearing require the cancellation of any or all contracts of insurance transacted by or through the holder of such certificate of convenience and may cancel the certificate of authority of any insurer which fails to comply with such order.

SEC. 12 Section 1751 of the Insurance Code is amended to read:

1751 The commissioner shall require in advance a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as:

(1) Insurance agent, twenty dollars ($20).

(2) Insurance broker, thirty dollars ($30).

(3) Life agent, resident, twenty dollars ($20).

(4) Life agent, nonresident, twenty-four dollars ($24).

(b) Application for endorsement removing from any life agent's, insurance agent's or insurance broker's license issued to an organization the name of any natural person named thereon, three dollars ($3)

(c) First amendment to an application, three dollars ($3); a second and each subsequent amendment to an application, six dollars ($6).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, twelve dollars and fifty cents ($12.50) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, or a license as a variable annuity agent, twelve dollars and fifty cents ($12 50) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section seventeen dollars and fifty cents ($17.50) for each person to be reexamined

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 of this chapter, twelve dollars and fifty cents ($12.50) in addition to, and not in lieu of, fees otherwise required

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 of this chapter fifteen dollars ($15), except that there shall be no fee when such name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, sixty-two dollars and fifty cents ($62.50)

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational institution, or by a private nonprofit educational institution, sixty-two dollars and fifty cents ($62 50).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, thirty-two dollars and fifty cents ($32.50)

(k) A bond, pursuant to Article 5 (commencing with Section 1662) of this chapter or Section 1760 5 or 1765, except when such bond constitutes part of an original application filing, seven dollars and fifty cents ($7 50)

(l) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) of this division or Sections 12280 and 12280 2, five dollars ($5)

(m) An application or request for clearance and cancellation notice of a current licensee of record, five dollars ($5)

SEC 13. Section 1810 7 of the Insurance Code is repealed.

SEC. 14. Nothing in this act is intended, nor shall anything

herein be construed, to prohibit supervised on-the-job training of an applicant for a permanent production agency license

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CHAPTER 1112

An act to amend Sections 29305, 29610, 29621, 29622, 29624, 29630, 29631, 29642, and 29750 of the Elections Code, relating to elections.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1 Section 29305 of the Elections Code is amended to read:

29305. A person shall not directly or through any other person advance, pay, solicit, or receive or cause to be advanced, paid, solicited, or received any money or other valuable consideration to or for the use of any person in order to induce a person not to become or to withdraw as a candidate for public office. Violation of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years

SEC. 2. Section 29610 of the Elections Code is amended to read:

29610. Any person who commits fraud or attempts to commit fraud and any person who aids or abets fraud or attempts to aid or abet fraud in connection with any vote cast or to be cast, or attempted to be cast, is guilty of a felony, punishable by imprisonment for 16 months or two or three years.

SEC. 3. Section 29621 of the Elections Code is amended to read:

29621. A person shall not directly or through any other person receive, agree, or contract for, before, during or after an election, any money, gift, loan, or other valuable consideration, office, place, or employment for himself or any other person because he or any other person:

(a) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for any particular person or measure.

(b) Remained away from the polls

(c) Refrained or agreed to refrain from voting.

(d) Induced any other person to:

(1) Remain away from the polls.

(2) Refrain from voting.

(3) Vote or refrain from voting for any particular person or measure.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 4. Section 29622 of the Elections Code is amended to read:

29622 A person shall not, directly or through any other person pay, lend, or contribute, or offer or promise to pay, lend, or contribute,

any money or other valuable consideration to or for any voter or to or for any other person to.

(a) Induce the voter to·

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure

(3) Remain away from the polls at an election.

(b) Reward the voter for having.

(1) Refrained from voting

(2) Voted for any particular person or measure

(3) Refrained from voting for any particular person or measure.

(4) Remained away from the polls at an election.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC 5. Section 29624 of the Elections Code is amended to read:

29624 A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, will be used for boarding, lodging, or maintaining a person at any place or domicile in any election precinct, ward, or district, with intent to secure the vote of that person or to induce that person to vote for any particular person or measure.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years

SEC. 6. Section 29630 of the Elections Code is amended to read:

29630. Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 7 Section 29631 of the Elections Code is amended to read·

29631 Every employer, whether a corporation or natural person, or any other person who employs, is guilty of a misdemeanor if, in paying his employees the salary or wages due them, incloses their pay in pay envelopes upon which or in which there is written or printed the name of any candidate or any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees

SEC 8 Section 29642 of the Elections Code is amended to read:

29642 Any person who votes or attempts to vote an absent voter's ballot by fraudulently signing the name of a regularly qualified voter or the name of a person who is not qualified to vote is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years, or by fine not exceeding one thousand dollars ($1,000) or by both such fine and imprisonment.

SEC. 9. Section 29750 of the Elections Code is amended to read:

29750. Every person who threatens to commit an assault or battery on a person circulating a referendum, initiative, or recall petition or on a relative of a person circulating a referendum, initiative, or recall petition or to inflict damage on the property of such circulator or such relative, with the intent to dissuade the circulator from circulating the petition or in retribution for such circulation, is guilty of a misdemeanor.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1113

An act to amend Section 2146.5 of, and to add Section 2146.6 to, the Business and Professions Code, relating to medical assistants.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 2146.5 of the Business and Professions Code is amended to read:

2146.5 A medical assistant may, upon the specific authorization and under the supervision of a physician and surgeon or podiatrist, within the scope of his license, administer medication only by intradermal, subcutaneous and intramuscular injection and perform skin tests. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a medical assistant.

"Supervision," as used in this section, means supervision of procedures authorized by this section by a licensed physician and surgeon or podiatrist within the scope of his license, who shall be physically present in the treatment facility during the performance of such procedures.

"Specific authorization" as used in this section means:

(a) A specific written order prepared by the supervising physician or podiatrist authorizing the procedures to be performed on a patient, a copy of which shall be placed in the patient's medical record; or

(b) A standing order prepared by the supervising physician or podiatrist authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A

notation of the standing order shall be placed on the patient's medical record

For purposes of this section, "medical assistant" is defined as a person who is employed by a licensed physician or physicians, licensed podiatrist or podiatrists, health care services plan, or a medical corporation of physicians or podiatrists established pursuant to Article 17 (commencing with Section 2500) of Chapter 5, who performs basic administrative, clerical, and technical supportive services for such physician, or physicians, podiatrist or podiatrists, medical corporation, or health care services plan, and who is at least 18 years of age, and has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Allied Health Professions The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the training required A copy of the certificate shall be retained as a record by each employer of the medical assistant

SEC 2 Section 2146.6 is added to the Business and Professions Code, to read

2146 6 A medical assistant, as defined in Section 2146.5, may perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization, as defined in Section 2146 5, and under the supervision, as defined in Section 2146.5, of a licensed physician and surgeon or a licensed podiatrist, within the scope of his license, if prior thereto the medical assistant has had at least the minimum amount of hours of appropriate training in performing venipuncture pursuant to standards established by the Division of Allied Health Professions The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the training required. A copy of the certificate shall be retained as a record by each employer of the medical assistant

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CHAPTER 1114

An act to amend Sections 25302, 25528, and 25537 and the heading of Chapter 9 (commencing with Section 25800) of Division 15 of, and to add Section 25804 to, the Public Resources Code, relating to energy, and making an appropriation therefor

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 25302 of the Public Resources Code is amended to read:

25302. Upon receipt of a report required under Section 25300 from an electric utility, the commission shall forward copies thereof to the Legislature, the Public Utilities Commission, the Secretary of the Resources Agency, the Director of the Office of Planning and Research, the California Coastal Commission, and other concerned state and federal agencies. The report shall also be made available, at cost, to any person upon request. The commission shall request each city and county within the service area covered by the report to review and comment on the report in relation to estimates of population growth and economic development, patterns of land use and open space, and conservation and other appropriate elements of the adopted city or county general plan. Upon request, the commission shall forward without charge a copy of the report to any interested city or county. A copy of the report shall be maintained on file for public inspection in each county.

SEC. 2. Section 25528 of the Public Resources Code is amended to read:

25528. (a) The commission shall require, as a condition of certification of any site and related facility, that the applicant acquire, by grant or contract, the right to prohibit development of privately owned lands in the area of the proposed site which will result in population densities in excess of the maximum population densities which the commission determines, as to the factors considered by the commission pursuant to Section 25511, are necessary to protect public health and safety.

If the applicant is authorized to exercise the right of eminent domain under Article 7 (commencing with Section 610) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant may exercise the right of eminent domain to acquire such development rights as the commission requires be acquired.

(b) In the case of an application for a nuclear facility, the area and population density necessary to insure the public's health and safety designated by the commission shall be that as determined from time to time by the United States Nuclear Regulatory Commission, if the commission finds that such determination is sufficiently definitive for valid land use planning requirements.

(c) The commission shall waive the requirements of the acquisition of development rights by an applicant to the extent that the commission finds that existing governmental land use restrictions are of a type necessary and sufficient to guarantee the maintenance of population levels and land use development over the lifetime of the facility which will insure the public health and safety requirements set pursuant to this section.

(d) No change in governmental land use restrictions in such areas designated in subdivision (c) of this section by any government agency shall be effective until approved by the commission. Such approval shall certify that the change in land use restrictions is not

in conflict with requirements provided for by this section.

(e) It is not the intent of the Legislature by the enactment of this section to take private property for public use without payment of just compensation in violation of the United States Constitution or the Constitution of California.

SEC. 3. Section 25537 of the Public Resources Code is amended to read:

25537. Upon approval of an application, the commission shall forward to the United States Nuclear Regulatory Commission, the Environmental Protection Agency, and to other appropriate federal agencies, the results of its studies including the environmental impact report on the facility, the written decision on the facility contained in the application, and the commission's determination of facility safety and reliability as provided in Section 25511.

SEC. 4 The heading of Chapter 9 (commencing with Section 25800) of Division 15 of the Public Resources Code is amended to read:

CHAPTER 9. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT ACCOUNTS

SEC. 5. Section 25804 is added to the Public Resources Code, to read:

25804. The State Energy Resources Conservation and Development Reserve Account is hereby created in the General Fund, and moneys in the account are hereby continuously appropriated to the State Energy Resources Conservation and Development Commission for allocation by the Department of Finance for expenditure for the purposes of, and as allocated pursuant to, the provisions of this division.

The account shall consist of the unappropriated balance of the State Energy Resources Conservation and Development Special Account in the General Fund as of June 30 of each fiscal year or such fraction thereof as is required to establish a balance of not greater than three million dollars ($3,000,000) in the reserve account on July 1, of the subsequent fiscal year and such other funds as the Legislature may appropriate to the account.

The Director of Finance may allocate from the reserve account to the commission:

(a) Amounts for cash-flow purposes under such terms and conditions as the director may prescribe.

(b) Amounts for general state employee salary increases for officers and employees of the commission in such amounts as approved by the Legislature.

(c) Amounts to augment current support allocations necessary to carry out the commission's responsibility in processing notices of intent and claims of exemption pursuant to Chapter 6 (commencing with Section 25500). The allocation specified in subdivision (c) shall be made no sooner than 30 days after notification in writing of the

necessity therefor to the chairman of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairman of such committee, or his designee, may in each instance determine.

Any amount appropriated by this section shall not be classified by the Board of Equalization as an unappropriated balance in the special account for the purpose of establishing the surcharge rate, as provided in Section 40031 of the Revenue and Taxation Code.

SEC 6. This act shall become operative July 1, 1978

CHAPTER 1115

An act to amend Section 10012 of the Elections Code, relating to elections

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1 Section 10012 of the Elections Code is amended to read:

10012. Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statemen on an appropriate form provided by the clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself; provided, however, that the governing body of such local agency may authorize an increase in the limitations on words for such statement from 200 to 400 words. Such statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the clerk when his nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. Such statement shall be filed in the office of the clerk no later than the 60th day before the election, if it is for an election for which nomination papers are not required to be filed. It may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period

The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide such translation from the list of approved Spanish language translators and interpreters of the superior court of the

county or from an institution accredited by the Western Association of Schools and Colleges.

The local agency may bill each candidate availing himself of these services a sum not greater than the actual prorated costs of printing, handling, and translating the candidate's statement, if any, incurred by the agency as a result of providing this service. Such costs shall not include any charge for mailing. Only those charges may be levied with respect to the candidate's statement and each candidate using these services shall be charged the same.

The clerk shall reject any statement, which contains any obscene, vulgar, profane, scandalous, libelous or defamatory matter, or any language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward, or which tends to cast ridicule or shame upon any person or group of persons by reason of sex, race, color, religion or manner of worship, or any language or matter the circulation of which through the mails is prohibited by Congress.

Nothing in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

The governing body of the local agency may adopt regulations to permit each candidate for elective office to prepare separately other materials to be sent to each voter in addition to the sample ballot and the voter's pamphlet. Such regulations may pertain to size, weight, form, physical composition, and content of such other materials and may specify that the cost of handling, packaging and mailing may be borne by the local agency authorizing the same or may be billed in whole or in part to the candidate submitting the materials Such regulations shall apply equally to all candidates, including incumbents. Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement or other materials sent to each voter. Such decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his representative at the time he picks up his nomination papers.

SEC. 2. There are no state-mandated local costs in this act which require reimbursement under Section 2231 of the Revenue and Taxation Code because this act makes only technical changes to existing law

CHAPTER 1116

An act to amend Sections 301, 305, 400, 500, 501, 502, 503, 506, 507, 508, and 29202 of the Elections Code, relating to elections.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 301 of the Elections Code is amended to read:

301. No person shall be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county clerk and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county clerk or on the 29th day before an election to be held in the registrant's precinct if (a) the affidavit is executed on or before the 29th day prior to the election, and (b) the affidavit is received by the county clerk by mail after the 29th day and by the fourth day after the 29th day before the election; provided, however, that an affidavit which is postmarked after the 29th day before an election shall not be deemed effective for purposes of this section.

Notwithstanding any other provision of law to the contrary, the affidavit of registration required under the provisions of this chapter shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

SEC. 2. Section 305 of the Elections Code is amended to read:

305. (a) Except as provided in subdivision (b), the county clerk shall accept affidavits of registration at all times except during the 28 days immediately preceding any election, when registration shall cease for that election as to electors residing in the territory within which the election is to be held. Transfers of registration for an election may be made from one precinct to another precinct in the same county at any time when registration is in progress in the precinct to which the elector seeks to transfer.

(b) The county clerk or his deputy shall accept an affidavit of registration executed as part of a voter registration card in the forthcoming election if (1) the affidavit is executed on or before the 29th day prior to the election, and (2) the affidavit is received by the county clerk or his deputy by mail after the 29th day and by the fourth day after such 29th day; provided, however, that an affidavit which is postmarked after the 29th day before an election shall not be deemed effective for purposes of this section

SEC. 3. Section 400 of the Elections Code is amended to read:

400. The county clerk shall provide voter registration forms for use in registration by deputy registrars of voters. Such voter registration forms shall be bound into books or pads. The affidavits

included in such voter registration forms shall be numbered and shall have a stub attached as prescribed by Section 508.

Each affidavit and stub shall bear the same number. The numbering shall begin with one and continue in a sequence until all of the blanks provided are numbered. The numbering shall begin anew with each 1,000,000 affidavits of registration numbered pursuant to this section. Each set of numbers shall be designated alphabetically as a series, beginning with series A, following the first 1,000,000.

SEC. 4. Section 500 of the Elections Code is amended to read:

500. The affidavit of registration shall show:

(a) The facts necessary to establish the affiant as an elector

(b) Affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of such given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs. or Mr. No person shall be denied the right to register because of his or her failure to mark a prefix to such given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(c) Affiant's place of residence, and residence telephone number, if furnished. No person shall be denied the right to register because of his or her failure to furnish a telephone number, and shall be so advised on the voter registration card.

(d) Affiant's mailing address, if different from the place of residence.

(e) Affiant's date of birth.

(f) The state or country of affiant's birth

(g) Affiant's occupation.

(h) Affiant's political party affiliation, if any.

(i) That the affiant is currently not imprisoned or on parole for the conviction of a felony which disqualifies the affiant from voting

(j) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he or she shall give such additional statement giving that address, name, or party.

The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name, and if affiant is unable to write he or she shall sign with a mark or cross. The affiant shall date the affidavit immediately following affiant's signature.

If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

SEC. 5. Section 501 of the Elections Code is amended to read:

501. At the time of registering and of transferring registration,

each elector may declare the name of the political party with which he or she intends to affiliate at the ensuing primary election. The name of that political party shall be stated in the affidavit of registration and the index.

The voter registration card shall inform the affiant that any elector may decline to state a political affiliation, but no person shall be entitled to vote the ballot of any political party at any primary election unless he or she has stated the name of the party with which he intends to affiliate. The voter registration card shall include a listing of all qualified political parties.

No person shall be permitted to vote the ballot of any party or for any delegates to the convention of any party other than the party designated in his or her registration, except as provided by Section 502.

SEC. 6. Section 502 of the Elections Code is amended to read:

502. Whenever any voter has declined to designate or has changed his or her political affiliation prior to the close of registration for an election, he or she may either so designate or have a change recorded by executing a new affidavit of registration and completing the prior registration portion of the affidavit.

SEC. 7. Section 503 of the Elections Code is amended to read:

503. (a) Except as provided in subdivisions (c) and (d), the affidavit of registration shall show all the facts required to be stated.

(b) Except as provided in subdivisions (d), (e), (f), and (g), if the affidavit does not contain all of the information required, but the telephone number of the affiant is legible, the county clerk shall telephone the affiant and attempt to collect the missing information.

(c) If the affidavit does not contain all of the information required, and the county clerk is not able to collect the missing information by telephone, but the mailing address of the affiant is legible, the county clerk shall inform the affiant of the reason for rejection and shall send to the affiant a new voter registration card.

(d) If the affidavit fails to state the affiant's occupation as prescribed in subdivision (h) of Section 500, it shall be presumed that the affiant is unemployed or has no occupation, and such missing information shall not affect the validity of the affidavit.

(e) If a properly executed affidavit is received by the county clerk on or before the 29th day prior to an election, or is received in the manner and on the dates prescribed in subdivision (b) of Section 305, the clerk shall send to the affiant a voter notification by nonforwardable first-class mail with address correction requested. Such notification shall inform the voter that the voter is registered to vote in the forthcoming election, and that his or her name will appear on the index kept at the polls.

(f) If a properly executed affidavit is received by the county clerk after the 29th day prior to an election and such affidavit is not subject to the provisions of subdivision (b) of Section 305, the clerk shall send to the affiant a voter notification by nonforwardable first-class mail, with address correction requested. Such notification shall inform the

voter that the registration will not be valid for the forthcoming election, but will be valid for any election occurring at least 29 days after the date of receipt of the affidavit by the county clerk

SEC. 8. Section 506 of the Elections Code is amended to read

506. Subject to the provisions of this chapter, the affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. Such affidavit shall.

(a) Contain the information prescribed in Section 500

(b) Be sufficiently uniform among the separate counties to allow for the processing and use by one county of an affidavit completed in another county.

(c) Allow for the inclusion of informational language to meet the specific needs of that county, including but not limited to, the return address of the clerk in that county, and a phone number at which a voter can obtain elections information in that county.

(d) Be included on one portion of a multipart card, to be known as a voter registration card, the other portions of which shall include information sufficient to facilitate completion and mailing of the affidavit and to inform the voter that the voter should not consider himself registered until a voter notification is received by return mail The affidavit portion of the multipart card shall be numbered according to regulations adopted by the Secretary of State For purposes of facilitating the distribution of voter registration cards as provided in Section 507, there shall be attached to the affidavit portion a receipt. The receipt shall be separated from the body of the affidavit by a perforated line.

(e) Be returnable to the county clerk as a self-enclosed mailer with postage paid by the Secretary of State.

Nothing contained in the division shall prevent the use of voter registration cards and affidavits of registration in existence on the effective date of this section and produced pursuant to regulations of the Secretary of State, and all references to voter registration cards and affidavits in this division shall be applied to such existing voter registration cards and affidavits of registration.

SEC. 9. Section 507 of the Elections Code is amended to read:

507. In addition to registration conducted by deputy registrars of voters, the county clerk shall, as follows.

(a) Provide voter registration cards for the registration of voters at his office and in sufficient number of locations throughout the county for the convenience of persons desiring to register, to the end that registration may be maintained at a high level

(b) Provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute such cards Such citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county.

If, after completing his or her voter registration affidavit, an elector entrusts it to another person, the latter shall sign and date the attached, numbered receipt indicating his or her address and telephone number, if any, and give the receipt to the elector

If distribution of voter registration cards pursuant to this subdivision is undertaken by mailing cards to persons who have not requested the cards, the person mailing such cards shall enclose a cover letter or other notice with each card instructing the recipients to disregard the cards if they are currently registered voters.

(c) Mail a voter registration card immediately to any person who wishes to register to vote and requests a voter registration card.

SEC. 10. Section 508 of the Elections Code is amended to read.

508. Each affidavit of registration issued to a deputy county clerk or registration clerk shall meet the requirements prescribed by Section 506, except that the voter registration card shall be modified, pursuant to regulations adopted by the Secretary of State, to reflect the use of a deputy registrar of voters in lieu of mail delivery. A stub, separated from the body of the voter registration card by a perforated line, shall be attached to each such affidavit. Upon the stub shall be printed the number of the affidavit and blanks for the following:

(a) The name, residence, political affiliation, and signature of the voter.

(b) The signature of the registration clerk or deputy registrar taking the registration.

(c) The date.

At the time of registering the voter, the registration clerk or deputy registrar shall fill in the blanks in the stub, and require the voter to sign the stub in the place provided. He shall then detach the stub and the informational portion of the voter registration form from the affidavit and hand the stub and information to the voter.

SEC. 11. Section 29202 of the Elections Code is amended to read:

29202. Any person who (a) willfully interferes with the prompt transfer of a completed affidavit of registration to the county clerk, (b) retains a voter's completed registration card, without the voter's authorization, for more than three days, excluding Saturdays, Sundays, and state holidays, or (c) denies a voter the right to return to the county clerk the voter's own completed registration card is guilty of a misdemeanor.

CHAPTER 1117

An act to add Sections 1010 and 36559 to, and to add Chapter 4.3 (commencing with Section 36380) to Part 6 of Division 13 of, the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 1010 is added to the Water Code, to read:

1010. Cessation of or reduction in the use of water under any existing right regardless of the basis of right, as the result of the use of reclaimed water or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses, shall be and is deemed equivalent to, and for purposes of maintaining any right shall be construed to constitute, a reasonable beneficial use of water to the extent and in the amount that such reclaimed or polluted water is being used not exceeding, however, the amount of such reduction No lapse, reduction, or loss of any existing right shall occur under such conditions.

The board may require that any user of water who seeks the benefit of this section file periodic reports describing the extent and amount of the use of reclaimed or polluted water. To the maximum extent possible, such reports shall be made a part of other reports required by the board relating to the use of water.

For purposes of this section, the term "reclaimed water" shall have the same meaning as in Division 7 (commencing with Section 13000).

SEC 2. Chapter 4.3 (commencing with Section 36380) is added to Part 6 of Division 13 of the Water Code, to read:

CHAPTER 4.3. REVENUE WARRANTS

36380. A district whose facilities are for delivery primarily of agricultural water supplies and wherein at least 51 percent of the assessable acreage is zoned and developed for agricultural uses may issue revenue warrants pursuant to this chapter to obtain funds for any lawful purpose of the district, including the repayment of indebtedness of the district. A district may issue revenue warrants pursuant to this chapter in any year only if the district does not receive during such year its full contractual entitlement under a water supply contract with the United States, the State of California, or any other public agency, upon which contract the district relies for meeting a substantial portion of its water supply needs.

36381. Revenue warrants shall be secured by all or part of the revenues received by the district from charges fixed pursuant to Section 35470 or from any other source other than assessments, and any such revenues may be pledged to the payment of revenue warrants. In the resolution authorizing issuance of revenue warrants, the board may subject such revenues as it specifies to a lien or charge to secure the payment of the principal of, and the interest on, revenue warrants, but such warrants shall not be secured by any lien or charge upon any assessment.

36382. Revenue warrants shall bear interest at a rate or rates not exceeding 8 percent per annum, payable annually or semiannually or in part annually and in part semiannually, as the board may prescribe.

36383. Revenue warrants shall mature at such time or times as the board may prescribe, but not more than 10 years from the date of

issuance

36384. Revenue warrants may be made subject to redemption prior to their fixed maturity date upon such terms, conditions and notice, and at such times and prices, as the board may determine prior to the issuance of such warrants.

36385. Revenue warrants may be sold at either public or private sale upon such terms and conditions as the board may determine. Such warrants may be sold at less than their par or face value, but no revenue warrant may be sold at a price which would yield to the purchaser an average of more than 8 percent per annum, payable semiannually, according to standard tables of bond values.

36386. No revenue warrants shall be issued or sold until their issuance has been authorized by resolution of the board adopted by a four-fifths vote and approved by the State Treasurer. The board also may, but need not, request the State Treasurer to investigate and certify such warrants as legal investments in accordance with the provisions of Division 10 (commencing with Section 20000) of this code.

36386.1. If, after the board adopts the resolution to issue the revenue warrants and before 30 days thereafter, the board receives a petition containing the signatures of persons holding title to 10 percent of the land area within the district, the board shall call an election of the qualified voters in the district and submit the resolution to issue revenue warrants to such voters for their approval or rejection. The election required by this section shall be called and noticed, held, and conducted in the same manner provided for bond elections in the district, excepting that a majority of the votes cast in favor of such resolution shall be required for the approval of such resolution.

36387. The board may determine the form and denomination of revenue warrants, the manner of their execution, their registration and exchange privileges and the place or places of their payment.

36388. The board, in a resolution authorizing the issuance of revenue warrants, may provide for special funds for the deposit and application of the proceeds of the warrants and for the deposit and application of revenues pledged to secure their payment. The board may provide for the establishment of a reserve fund from the proceeds of the revenue warrants or revenues pledged to their payment The board may appoint a fiscal agent to hold any or all such funds in trust for the holders of revenue warrants and for the district

36389 The board, in a resolution authorizing the issuance of revenue warrants, may covenant to operate and maintain the facilities producing the revenues pledged for the security of the revenue warrants, may covenant to fix, maintain, and collect tolls, charges, rates, or fees which will produce revenues sufficient to provide for the payment of the principal of and interest on the revenue warrants and to provide such additional sums for the further security of the revenue warrants as the resolution may prescribe, and may make such other covenants, with respect to insurance,

investments of funds, accounting records, independent audits, events of default, limitations upon competitive facilities, and any other matters relating to the revenue warrants and their security as the board may deem necessary, convenient, or desirable in order better to secure the revenue warrants or to make them more marketable.

36390. The board, in a resolution authorizing the issuance of revenue warrants, may provide for paying the interest on the revenue warrants for a period of not more than one year out of the proceeds of the sale thereof.

36391. Except as otherwise provided in any resolution authorizing the issuance of revenue warrants, the holder of any revenue warrant may by mandamus, or other appropriate proceeding, require and compel the performance of any of the duties imposed upon the board, or upon any officer or employee of the district, in connection with the collection, deposit, investment, application, or disbursement of any revenues pledged for the security of the revenue warrants, or in connection with the deposit, investment, or disbursement of the proceeds received from the sale of the revenue warrants, or in connection with any covenants contained in the resolution authorizing the issuance of the revenue warrants. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of revenue warrants.

36392. Revenue warrants shall not be issued under this chapter by any district in any one fiscal year in excess of four million dollars ($4,000,000).

36393. The provisions of this chapter shall constitute an addition to all other power of a district to borrow money, incur indebtedness, and issue warrants in connection therewith, and shall not be deemed a restriction or limitation on such other power.

SEC. 3. Section 36559 is added to the Water Code, to read:

36559. If a fiscal year is adopted pursuant to Section 36558, in lieu of submitting the annual estimate at the time set forth in Section 36552, the board may, by resolution, establish that the annual estimate required by Section 36552 shall be filed between 30 and 90 days from the beginning of the district's fiscal year so adopted. In such event, the annual assessment made pursuant to Section 36570 shall be made between the first day of such fiscal year and 90 days thereafter.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because revenue is provided in Section 37206 of the Water Code to cover such costs.

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

The California water districts affected by this legislation must consist of lands at least 51 percent of which are zoned for, and are devoted to, developed agricultural use and must have undertaken projects providing facilities for delivery primarily of agricultural water supplies for use in such districts The projects, including the water supply contracts, have annual fixed costs of great magnitude. Although the lands are the ultimate security for these fixed obligations, the financial programs under which these projects are implemented provide that substantial portions of these costs be recovered from charges related to the available water supply. As a direct result of the severe drought conditions existing throughout the State of California the available water supply has been reduced to unexpected minimums, resulting in unit costs of water of unexpected magnitude In order to preserve the financial integrity of the projects, and, thereby, to continue to provide the water necessary to preserve the health and safety of the persons residing in the affected areas, it is now necessary to provide such districts with additional financial flexibility to meet their financial commitments in a timely manner from financially feasible revenues, and it is, therefore, essential that this act go into immediate effect

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CHAPTER 1118

An act to add Section 172c to the Penal Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 172c is added to the Penal Code, to read:

172c. The provisions of Section 172a shall not apply to the sale at auction of alcoholic beverages by a nonprofit organization at the California Museum of Science and Industry premises located at Exposition Park, Los Angeles, California.

SEC. 1. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The purpose of this act is to grant an exemption to permit the sale of alcoholic beverages. The exemption is needed for an auction to be held November 18, 1977, with the proceeds of the sale to benefit educational programs and facilities at the California Museum of Science and Industry. In order to conduct this auction it is necessary that this act go into immediate effect.

CHAPTER 1119

An act to add Section 84216 to the Government Code, relating to elections

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1 Section 84216 is added to the Government Code, to read:

84216. For purposes of this chapter, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business or it is clear from the surrounding circumstances that it is not made for political purposes A loan which is not a contribution, but which is used by a candidate or committee for political purposes, shall be reported in the manner described in Section 84210.

SEC 2 The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code

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CHAPTER 1120

An act to amend Sections 3791.3, 3797, 3800, 3805, 3807.5, and 3811 of, and to add Sections 3695.5, 3772.5, and 3795 5 to, the Revenue and Taxation Code, relating to property taxation

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 3695.5 is added to the Revenue and Taxation Code, to read:

3695.5. In addition to the provisions of Sections 3695 and 3695 4 relative to objections to sales, any nonprofit organization may file with the county tax collector and county board of supervisors written objection to the sale of any residential real property which was deeded to the state and which the nonprofit organization states in writing that it will rehabilitate and will sell to low-income persons.

Such objection shall be accompanied by an application to purchase the property under Chapter 8 (commencing with Section 3771) of this part, which shall be filed with the board of supervisors and the tax collector before the date of the first publication of the notice of intended sale. If a nonprofit organization objects to the sale and before the date of sale applies in writing to the board of supervisors

to purchase the property under Chapter 8 (commencing with Section 3771) of this part at a price equal to that approved by the board of supervisors, the tax collector shall not proceed with the sale.

The terms "nonprofit organization," "low-income persons" and "rehabilitation" shall have the same meaning in this section as in Chapter 8 (commencing with Section 3771).

SEC. 2. Section 3772.5 is added to the Revenue and Taxation Code, to read:

3772.5. As used in this chapter, "low-income persons" means persons and families whose income does not exceed 120 percent of area median income, with adjustments for family size, as determined from time to time by the Secretary of Housing and Urban Development pursuant to subsection (f) of Section 8 of the Housing and Community Development Act of 1974 (P.L. 93-383). "Nonprofit organization" means a nonprofit organization incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code for the purpose of acquisition and rehabilitation of single-family dwellings for sale to low-income persons. "Rehabilitation" means repairs and improvements to a substandard building, as defined in subdivision (f) of Section 17920 of the Health and Safety Code, necessary to make it a building which is not a substandard building

SEC. 3. Section 3791.3 of the Revenue and Taxation Code is amended to read:

3791.3. Whenever property has been deeded to the state for taxes, whether or not the property is subject to or has been sold or deeded for taxes to a taxing agency other than the state, the state, county, any revenue district the taxes of which on the property are collected by county officers, a nonprofit organization proposing to rehabilitate and to sell to low-income persons, or a redevelopment agency created pursuant to the California Community Redevelopment Law, may purchase the property or any part thereof, including any right-of-way or other easement, pursuant to this chapter. A redevelopment agency, however, may only purchase such tax-deeded property located within a designated survey area.

SEC. 4. Section 3795.5 is added to the Revenue and Taxation Code, to read:

3795.5. In the case of an agreement involving a nonprofit organization, the Controller may establish conditions of sale, including reporting, to assure the completion of rehabilitation within a reasonable time and maximum benefit to low-income persons, and may provide for reconveyance if the conditions are not met as provided in Section 3807.5.

SEC. 5. Section 3797 of the Revenue and Taxation Code is amended to read:

3797. The notice of agreement shall state:

(a) A description of the property substantially as described in the agreement.

(b) The name of the last assessee of the property. To ascertain the

name of the last assessee of the tax-deeded property an examination shall be made of the assessment of this property on the last equalized roll, or if this property does not appear thereon, the last previous roll on which it was assessed.

(c) That an agreement for the sale of the property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the taxing agency or nonprofit organization named in the agreement and has been approved by the Controller.

(d) That a copy of the agreement is on file in the office of the board of supervisors

(e) If the right to redeem the property has not already been terminated, there shall also be a statement that unless the property is redeemed before it is sold, the right of redemption will cease.

SEC. 6. Section 3800 of the Revenue and Taxation Code is amended to read

3800. The cost of giving the notice of agreement shall be paid by the taxing agency or nonprofit organization by which the property is to be or may be purchased.

SEC 7 Section 3805 of the Revenue and Taxation Code is amended to read

3805 (a) In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(1) That the real property was duly sold and conveyed to the state for nonpayment of taxes which had been legally levied and were a lien on the property.

(2) The name of the purchaser.

(b) The deed may further specify any condition deemed necessary to effect compliance with the agreement, including, but not limited to, a condition that the real property be used by the taxing agency or nonprofit organization for the public use specified in the agreement.

SEC 8. Section 3807 5 of the Revenue and Taxation Code is amended to read:

3807.5. If the agreement contained provisions for the pro rata division of the proceeds of a sale of the property or for its rehabilitation following sale to a nonprofit organization, and the property is not sold by the taxing agency or rehabilitated by the nonprofit organization purchasing the property within two years after the execution of the deed, and not within any extension of such period approved by the board of supervisors, the taxing agency or nonprofit organization shall execute a deed to the state reconveying to the state all the right, title and interest of the state in the property which such taxing agency or nonprofit organization obtained by the deed of the tax collector under the provisions of this chapter. Such deed shall be delivered to the county tax collector. Thereafter, such property shall be held as tax-deeded property by the state and the privilege of redemption is thereby restored.

The Controller shall provide uniform blanks on which such

reconveyances shall be made. There shall be the same number of duplicates as is required for deeds to the state for taxes, and the same procedure shall be followed in recording such deeds as is provided by law for the recording of deeds to the state for taxes.

SEC. 9. Section 3811 of the Revenue and Taxation Code is amended to read:

3811. On execution of the deed to the taxing agency or nonprofit organization, and on receipt of a notice of resale of the property by the taxing agency the tax collector shall report the following within 10 days to the State Controller, assessor, and auditor:

(a) The name of the purchaser.

(b) The date of the deed to the taxing agency or nonprofit organization, or in the event of resale the date of the deed by the taxing agency.

(c) The amount for which the property was sold or in the event of resale the net amount after deducting allowable expenses.

(d) The description of the property conveyed.

(e) The numbers and dates of certificate of sale to the state and of the deed to the state.

CHAPTER 1121

An act to amend Section 14454 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 14454 of the Welfare and Institutions Code is amended to read:

14454. (a) The prepaid health plan shall be liable for all in-area and out-of-area emergency services which are required by the contract and rendered by a nonprepaid health plan provider. Payment for such services shall include treatment of emergency conditions and shall continue until such time as the enrollee may be transferred to any provider of the prepaid health plan.

(b) Where a dispute arises between the prepaid health plan and the nonprepaid health plan provider as to the liability of the prepaid health plan for such services, the nonprepaid health plan provider may submit the matter to the director for determination in the form of a claim documenting as fully as reasonably possible the nature of the emergency, the necessity for the treatment rendered, the appropriateness of the length of stay for inpatient care, the reason the patient could not have been transferred to a provider of the prepaid health plan, and including any response by the prepaid

health plan to the claim which resulted in the dispute. The director shall, by regulation, provide for resolution of the dispute in a timely fashion and in a manner guaranteeing the procedural due process requirements of the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, except that the department shall use its own hearing officers. The hearing officer may be assisted by a physician. To the extent feasible, the director shall consolidate the claims of the nonprepaid health plan provider against the prepaid health plan.

In no event, shall the prepaid health plan or the nonprepaid health plan provider bill the enrollee for services which are or have been the subject of review by the director pursuant to this section.

(c) If the director determines that the prepaid health plan is liable for the emergency service, the plan shall reimburse the nonprepaid health plan provider within 30 days. If the prepaid health plan fails to reimburse the nonprepaid health plan provider within 30 days, the director shall arrange to set off the amount of the unpaid claim or claims from no fewer than two future capitation payments owed to the prepaid health plan by the department and the department shall forward such setoff or setoffs to the nonprepaid health plan provider. In making such arrangements to set off, the director shall consult with the affected prepaid health plan in an attempt to minimize the impact of such setoff or setoffs on cash flow. When the claim of the nonprepaid health plan provider is satisfied by setoff or setoffs, the director shall satisfy the claim only with the funds of the prepaid health plan and shall in no event use state funds to satisfy such a claim.

(d) Nothing in this section shall preclude prepaid health plans and nonprepaid health plan providers from entering into voluntary agreements to settle disputed claims for services by means of binding arbitration or by other means acceptable to both parties

SEC 2. The sum of eighty-three thousand dollars ($83,000) is hereby appropriated without regard to fiscal years from the General Fund to the State Department of Health for purposes of this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

At the earliest possible time, it is vital that current claims disputes be resolved between prepaid health plan and nonprepaid health plan providers under the Medi-Cal program Therefore, it is necessary that this act take immediate effect

CHAPTER 1122

An act to amend Sections 13959, 13964, and 13967 of, and to add Section 13969.1 to, the Government Code, and to amend Sections 1203 and 1203.1 of the Penal Code, relating to crimes.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 13959 of the Government Code is amended to read:

13959. It is in the public interest to indemnify and assist in the rehabilitation of those residents of the State of California who as the direct result of a crime suffer a pecuniary loss.

SEC. 2. Section 13964 of the Government Code is amended to read:

13964. After having heard the evidence relevant to the application for assistance, the board shall approve the application if a preponderance of the evidence shows that as a direct result of the crime the victim incurred an injury which resulted in a pecuniary loss. However, no victim shall be eligible for assistance under the provisions of this article if:

(a) The board finds that the victim or the person whose injury or death gave rise to the application knowingly and willingly participated in the commission of the crime;

(b) The victim or the person whose injury or death gave rise to the application failed to cooperate with a law enforcement agency in the apprehension and conviction of the criminal committing the crime;

(c) The board finds that the victim should not be allowed to recover because of the nature of his involvement in the events leading to the crime or the involvement of the persons whose injury or death gave rise to the application.

SEC. 3. Section 13967 of the Government Code is amended to read:

13967. Upon a person being convicted of a crime of violence committed in the State of California resulting in the injury or death of another person, if the court finds that the defendant has the present ability to pay a fine and finds that the economic impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare the court shall, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable economic impact upon the victim, of at least ten dollars ($10), but not to exceed ten thousand dollars ($10,000). In addition to any other penalty, upon a person being convicted of any other felony or misdemeanor there shall be levied a penalty assessment of ten dollars

($10) for each felony conviction and five dollars ($5) for each misdemeanor conviction upon every fine, penalty, and forfeiture imposed and collected by the courts. Any fine or penalty assessment imposed pursuant to this section shall not be subject to any penalty assessment imposed pursuant to Section 13521 of the Penal Code. The fine or penalty assessment imposed pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, hereby continued in existence, and the proceeds of which shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this article.

SEC. 4. Section 13969.1 is added to the Government Code, to read:

13969.1. (a) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his representative personally or sent to them by mail. It is the intent of the Legislature in enacting this provision to assure reasonable notice of a decision of the board to an applicant, and it is not the intent of the Legislature to require the board to issue a formal opinion in any case.

(b) The board itself may order a reconsideration of all or part of the application for assistance on its own motion or on written request of the applicant or his representative. The board may not grant more than one such request on any application for assistance. The board shall not consider any such request filed with the board more than 30 days after the personal delivery or 60 days after the mailing of the original decision.

(c) Judicial review of a final decision made pursuant to this article may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. The right to petition shall not be affected by the failure to seek reconsideration before the board. Such petition shall be filed as follows:

(1) Where no request for reconsideration is made, within 30 days of personal delivery or within 60 days of the mailing of the board's decision on the application for assistance.

(2) Where a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or within 60 days of the mailing of the notice of rejection

(3) Where a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or within 60 days of the mailing of the final decision on the reconsidered application.

Section 1203 of the Penal Code is amended to read:

1203. (a) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall

immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment The report shall be made available to the court and the prosecuting and defense attorneys at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(b) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant

(c) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report The court shall inform the person of the information to be considered and permit him to answer or controvert it For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced

(d) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not

be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times

(2) Any person who used or attempted to use a deadly weapon, other than a firearm, upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(e) When probation is granted in a case which comes within the provisions of subdivision (d), the court shall specify the circumstances indicating that the interests of justice would best be served by such a disposition

(f) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an

investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(g) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 5. Section 1203.1 of the Penal Code is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that such suspension may continue for such period of time not exceeding the maximum possible term of such sentence, except as hereinafter set forth, and upon such terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the instant case, provided, however, that where the maximum possible term of such sentence is five years or less, then such period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in such sum not to exceed the maximum fine provided by law in such case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; may provide for reparation in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such camp, farms, or other public work instead of in jail, and Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work as therein provided; and supervisors of the several counties are hereby authorized to provide public work and to fix the scale of compensation of such adult probationers in their respective counties In all cases of probation the court is authorized to require as a condition of probation that the probationer go to work and earn money for the support of his dependents or to pay any fine imposed or reparation condition, to keep an account of his earnings, to report the same to the probation officer and apply such earnings as directed by the court

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve sentence at intermittent periods such sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his maintenance shall be a county charge.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine and conditions and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from such breach and generally and specifically for the reformation and rehabilitation of the probationer, that should the probationer violate any of the terms or conditions imposed by the court in the instant matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation; provided, however, that upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, such marks of identification of each probationer must be taken and a record thereof kept and preserved.

Any other provision of law to the contrary notwithstanding, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures

CHAPTER 1123

An act to amend Sections 13959, 13964, and 13967 of the Government Code, and to amend Sections 1203 and 1203.1 of the Penal Code, relating to crimes, and making an appropriation therefor.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 13959 of the Government Code is amended to read:

13959. It is in the public interest to indemnify and assist in the rehabilitation of those residents of the State of California who as the direct result of a crime suffer a pecuniary loss

SEC 3. Section 13964 of the Government Code is amended to read:

13964 After having heard the evidence relevant to the application for assistance, the board shall approve the application if a preponderance of the evidence shows that as a direct result of the crime the victim incurred an injury which resulted in a pecuniary loss However, no victim shall be eligible for assistance under the provisions of this article if:

(a) The board finds that the victim or the person whose injury or death gave rise to the application knowingly and willingly participated in the commission of the crime;

(b) The victim or the person whose injury or death gave rise to the application failed to cooperate with a law enforcement agency in the apprehension and conviction of the criminal committing the crime, or

(c) The board finds that the victim should not be allowed to recover because of the nature of his involvement in the events leading to the crime or the involvement of the persons whose injury or death gave rise to the application

SEC 4. Section 13967 of the Government Code is amended to read

13967. (a) Upon a person being convicted of any felony or misdemeanor, the court shall order the defendant to pay a penalty assessment of ten dollars ($10) for each felony conviction and five dollars ($5) for each misdemeanor conviction. Such penalty assessments shall be in addition to any other penalty.

(b) All penalty assessments collected pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, hereby continued in existence, and the proceeds of which shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this article

(c) Notwithstanding the provisions of Section 13521 of the Penal

Code, the penalties levied in accordance with Section 13521 of the Penal Code on all penalty assessments collected pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, hereby continued in existence, and the proceeds of which shall be available when appropriated by the Legislature to indemnify persons filing claims pursuant to this article.

SEC. 5. Section 1203 of the Penal Code is amended to read:

1203. (a) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorneys at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(b) If a defendant is not represented by an attorney, the court

shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(c) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(d) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon, other than a firearm, upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human

being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(e) When probation is granted in a case which comes within the provisions of subdivision (d), the court shall specify the circumstances indicating that the interests of justice would best be served by such a disposition.

(f) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(g) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 6. Section 1203 1 of the Penal Code is amended to read:

1203 1 The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that such suspension may continue for such period of time not exceeding the maximum possible term of such sentence, except as hereinafter set forth, and upon such terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the instant case; provided, however, that where the maximum possible term of such sentence is five years or less, then such period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years, may fine the defendant in such sum not to exceed the maximum fine provided by law in such case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; may provide for reparation in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code In counties or cities and counties where road camps, farms, or other public work is available

the court may place the probationer in such camp, farms, or other public work instead of in jail, and Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work as therein provided; and supervisors of the several counties are hereby authorized to provide public work and to fix the scale of compensation of such adult probationers in their respective counties. In all cases of probation the court is authorized to require as a condition of probation that the probationer go to work and earn money for the support of his dependents or to pay any fine imposed or reparation condition, to keep an account of his earnings, to report the same to the probation officer and apply such earnings as directed by the court.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve sentence at intermittent periods such sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his maintenance shall be a county charge.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine and conditions and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from such breach and generally and specifically for the reformation and rehabilitation of the probationer, that should the probationer violate any of the terms or conditions imposed by the court in the instant matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation; provided, however, that upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, such marks of identification of each probationer must be taken and a record thereof kept and preserved.

Any other provision of law to the contrary notwithstanding, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county

SEC 7. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies, pursuant to Section 2231 of the Revenue and Taxation Code, to reimburse such agencies for costs incurred by them pursuant to this act.

SEC 8 It is the intent of the Legislature that if this bill is chaptered after Senate Bill No. 83, Section 13964 of the Government Code, as amended by Section 3 of Senate Bill No 83, shall prevail over Sections 13959 and 13964 of the Government Code, as amended by Sections 1 and 3, respectively, of this bill, in which event Sections 1 and 3 of this bill shall be inoperative. It is the intent of the Legislature that if this bill is chaptered after Senate Bill No. 725, Section 13967 of the Government Code, as amended by Section 3 of Senate Bill No. 725, shall prevail over Section 13967 of the Government Code, as amended by Section 4 of this bill, in which event Section 4 of this bill shall be inoperative

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CHAPTER 1124

An act relating to lupus erythematosus research, and in this connection supplementing Item 241 of the Budget Act of 1977 (Chapter 219 of the Statutes of 1977), and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. The proviso in Item 241 of the Budget Act of 1977 (Ch 219, Stats 1977) relating to lupus erythematosus research shall be of no force and effect on and after the effective date of this section. On and after that date, funds appropriated in Item 241 for lupus erythematosus research may not be encumbered by any grant or contract providing for such research until such grant or contract has been approved by the committee created pursuant to Section 2 of Chapter 297 of the Statutes of 1976 to review such proposals.

SEC 2 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are.

The Budget Act of 1977 (Ch. 219, Stats 1977) was enacted without reflecting a change in the law relating to lupus erythematosus research made by Chapter 215 of the Statutes of 1977 that provides for the approval of grants, in addition to contracts, by a certain committee In order that the encumbrance of funds appropriated for lupus erythematosus research will be subject to limitations that properly reflect the change made by Chapter 215 of the Statutes of

1977, it is necessary that this act take effect immediately.

CHAPTER 1125

An act to add Chapter 3 (commencing with Section 6950) to Part 2 of Division 6 of the Health and Safety Code, relating to on-site wastewater disposal zones.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Chapter 3 (commencing with Section 6950) is added to Part 2 of Division 6 of the Health and Safety Code, to read:

CHAPTER 3. ON-SITE WASTEWATER DISPOSAL ZONES

Article 1. Definitions

6950. "Board" or "board of directors" means the governing authority of a public agency.

6951. "Public agency" means a city or any district or other political subdivision of the state which is otherwise authorized to acquire, construct, maintain, or operate sanitary sewers or sewage systems.

"Public agency" does not mean an improvement district organized pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code), or the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000), Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500), Streets and Highways Code), or a county maintenance district.

6952. "On-site wastewater disposal system" means any of several works, facilities, devices, or other mechanisims used to collect, treat, reclaim, or dispose of waste water without the use of community-wide sanitary sewers or sewage systems.

6953. "Zone" means an on-site wastewater disposal zone formed pursuant to this chapter.

6954. "Real property" means both land and improvements to land which benefit, directly or indirectly from, or on behalf of, the activities of the zone.

Article 2. Formation

6955. Whenever the board of directors of a public agency deems it necessary to form an on-site wastewater disposal zone in all or a

portion of the public agency's jurisdiction, the board shall by resolution declare that it intends to form such a zone

6956 The resolution of intention shall also state:

(a) A description of the boundaries of the territory proposed to be included within the zone The description may be accompanied by a map showing such boundaries

(b) The public benefit to be derived from the establishment of such a zone

(c) A description of the proposed types of on-site wastewater disposal systems and a proposed plan for wastewater disposal.

(d) The number of residential units and commercial users in the proposed zone which the public agency proposes to serve.

(e) The proposed means of financing the operations of the zone

(f) The time and place for a hearing by the board on the question of the formation and extent of the proposed zone, and the question of the number and type of the residential units and commercial units that the public agency proposes to serve in the proposed zone.

(g) That at such time and place any interested persons will be heard

6956 5 The resolution of intention shall be filed for record in the office of the county recorder of the county in which all or the greater portion of the land in the proposed zone is situated

6957 (a) A proposal to form a zone within a public agency may also be initiated by filing a petition with the board Such a petition shall contain all the matters specified in subdivisions (a), (b), (c), and (d) of Section 6956 Such a petition shall be signed as provided in either of the following

(1) By not less than 10 percent of the voters who reside within the territory proposed to be included within the zone.

(2) By not less than 10 percent of the number of owners of real property, including both land and improvements to land, within the territory proposed to be included within the zone who also own not less than 10 percent of the assessed value of the real property within such territory

(b) Each signer of a petition shall add to his or her signature, the date of signing If the signer is signing the petition as a voter, he or she shall add to his or her signature his or her place of residence, giving street and number, or a designation sufficient to enable the place of residence to be readily ascertained. If the signer is signing the petition as an owner of real property, he or she shall add to his or her signature a description of the real property owned by him or her sufficient to identify the real property

(c) Following certification of the petition, the board shall set the time and place of the hearing on the question of the formation of the proposed zone

6958 (a) Notice of the hearing shall be given by publishing a copy of the resolution of intention or the petition, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing in a newspaper circulated in the public agency

(b) Notice of the hearing shall also be given to the local health officer, the board of supervisors, the governing body of any other public agency within the boundaries of the proposed zone, the governing body of any public agency whose sphere of influence, as determined pursuant to the provisions of Section 54774 of the Government Code, includes the proposed zone, the affected local agency formation commission, and the regional water quality control board in whose jurisdiction the proposed zone lies.

6959. The hearing by the board on the question of the formation of the proposed zone shall be no less than 45 days nor more than 60 days from adoption of a resolution of intention or the receipt of a petition containing a sufficient number of signatures.

6960. After receiving notice pursuant to subdivision (b) of Section 6958, a local health officer shall review the proposed formation and report his or her findings in writing to the board of directors of the public agency. The report shall specify the maximum number, type, volume, and location of on-site wastewater disposal systems which could be operated within the proposed zone without individually or collectively, directly or indirectly, resulting in a nuisance or hazard to public health. The local health officer may require from the public agency such information as may be reasonably necessary to make the findings required in this section.

6960.1. After receiving notice pursuant to subdivision (b) of Section 6958, the affected regional water quality control board shall review the proposed formation and report its findings in writing to the board of directors of the public agency. The report shall specify the maximum number, type, volume, and location of on-site wastewater disposal systems which could be operated within the proposed zone without individually or collectively, directly or indirectly, resulting in a pollution or nuisance, or adversely affecting water quality. The regional water quality control board may require from the public agency such information as may be reasonably necessary to make the findings required in this section.

6960.2. The number, type, volume, and location of on-site wastewater disposal systems to be operated within the zone shall not exceed the number specified pursuant to either Section 6960 or Section 6960.1.

6960.3. The formation of an on-site wastewater disposal zone shall be subject to review and approval by a local agency formation commission which has adopted rules and regulations affecting the functions and services of special districts pursuant to Article 4 (commencing with Section 54850) of Chapter 6.6 of Part 1 of Division 2 of Title 5 of the Government Code

6960.4. Prior to any decision on the question of the formation of the proposed zone, the board shall obtain approval for the proposed plan for wastewater disposal from the affected regional water quality control board if such plan involves the disposal of wastewater to a wastewater treatment facility. For any other method of wastewater disposal, and prior to any decision, the board shall obtain approval for

the proposed plan from the local health officer and the affected regional water quality control board. The affected regional water quality control board or the local health officer shall not approve any plan which does not comply with applicable requirements of federal, state, regional, or local law, order, regulation, or rule relating to water pollution, the disposal of waste, or public health.

6961. At the time and place fixed in the resolution of intention or the petition, or at any time or place to which the hearing is adjourned, any interested person may appear and present any matters material to the questions set forth in the resolution of intention or the petition. At the hearing the board shall also hear the reports of any local health officer, and any public agency with statutory responsibilities for setting water quality standards, regarding any matters material to the questions set forth in the resolution of intention or the petition.

6962 At the hearing the board shall also hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed. Any person who shall have filed a written protest may withdraw the same at any time prior to the conclusion of the hearing. The board shall have the following powers and duties:

(a) To exclude any territory proposed to be included in a zone when the board finds that such territory will not be benefited by becoming a part of such zone.

(b) To include any additional territory in a proposed zone when the board finds that such territory will be benefited by becoming a part of such zone.

6963. At the close of the hearing the board shall find and declare by resolution that written protests, filed and not withdrawn prior to the conclusion of the hearing, represent one of the following:

(a) Less than 35 percent of either of the following:

(1) The number of voters who reside in the proposed zone.

(2) The number of owners of real property in the proposed zone who also own not less than 35 percent of the assessed value of the real property within the proposed zone.

(b) Not less than 35 percent but less than 50 percent of either of the following:

(1) The number of voters who reside in the proposed zone.

(2) The number of owners of real property in the proposed zone who also own not less than 35 percent but less than 50 percent of the assessed value of the real property within the proposed zone.

(c) Not less than 50 percent of either of the following:

(1) The number of voters who reside in the proposed zone.

(2) The number of owners of real property in the proposed zone who also own not less than 50 percent of the assessed value of the real property within the proposed zone.

6964. If the number of written protests filed and not withdrawn is the number described in subdivision (c) of Section 6963, the board shall abandon any further proceedings on the question of forming a proposed zone.

6965 If the number of written protests filed and not withdrawn is the number described in subdivision (a) of Section 6963, the board shall find and declare by resolution all of the following:

(a) A description of the exterior boundaries of the proposed zone

(b) The number of on-site wastewater disposal systems which the public agency proposes to acquire, operate, maintain, or monitor.

(c) That the operation of the proposed zone will not result in land uses that are not consistent with applicable general plans, zoning ordinances, or other land use regulations

6966. The board may order the formation of the zone either without election or subject to confirmation by the voters upon the question of such formation. However, the board shall not order any such formation without an election if the number of written protests filed and not withdrawn is a number described in subdivision (b) of Section 6963.

6967. If the board does not order the formation of the proposed zone, an election on the question shall be conducted if, within 30 days of the date upon which the board did not order the formation, the board receives a petition requesting such an election signed by either of the following:

(a) Not less than 35 percent of the voters who reside within the territory proposed to be included within the zone.

(b) Not less than 35 percent of the number of owners of real property within the territory proposed to be included within the zone who also own not less than 35 percent of the assessed value of the real property within such territory

6968 Any election conducted pursuant to the provisions of this chapter shall be conducted pursuant to the provisions of the Uniform District Election Law (Part 3 commencing with Section 23500), Division 12, Elections Code).

6969. After the canvass of returns of any election on the question of forming a proposed zone, the board shall adopt a resolution ordering the formation of the zone if a majority of votes cast at such election are in favor of such formation.

6970. No public agency shall form a zone which includes any territory already included within another zone

6971. No public agency shall form a zone if such formation will permit other land uses which are not consistent with the general plans, zoning ordinances, or other land use regulations of any county or city within which the proposed zone is located.

6972. After the formation of the zone pursuant to this article, all taxes levied to carry out the purposes of the zone shall be levied exclusively upon the property taxable in the zone by the public agency.

6973. If the board does not form a zone after the close of a hearing in accordance with Section 6967 and no petition is filed pursuant to Section 6967, or if the board abandons proceedings on the proposal to form a zone, or if the formation of a zone is not confirmed by the voters, no further proceeding shall be taken thereon. No application

for a subsequent proposal involving any of the same territory and undertaken pursuant to the provisions of this chapter shall be considered or acted upon by the public agency for at least one year after the date of disapproval of, abandonment of, or election on the proceedings

Article 3. Powers

6975. An on-site wastewater disposal zone may be formed to achieve water quality objectives set by regional water quality control boards, to protect existing and future beneficial water uses, protect public health, and to prevent and abate nuisances. Whenever an on-site wastewater disposal zone has been formed pursuant to this chapter, the public agency shall have the powers set forth in this article, which powers shall be in addition to any other powers provided by law. A public agency shall exercise its powers on behalf of a zone.

6976 An on-site waste water disposal zone shall have the following powers:

(a) To collect, treat, reclaim, or dispose of waste water without the use of sanitary sewers or community sewage systems and without degrading water quality within or outside the zone

(b) To acquire, design, own, construct, install, operate, monitor, inspect, and maintain on-site wastewater disposal systems, not to exceed the number of systems specified pursuant to either Section 6960 or Section 6960.1, within the zone in a manner which will promote water quality, prevent the pollution, waste, and contamination of water, and abate nuisances.

(c) To conduct investigations, make analyses, and monitor conditions with regard to water quality within the zone.

(d) To adopt and enforce reasonable rules and regulations necessary to implement the purposes of the zone. Such rules and regulations may be adopted only after the board conducts a public hearing after giving public notice pursuant to Section 6066 of the Government Code.

6977. The district shall immediately do all such acts as are reasonably necessary to secure compliance with any federal, state, regional, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material within the area of the district. For such purpose, any authorized representative of the district, upon presentation of his credentials, or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, shall have the right of entry to any premises on which a water pollution, waste, or contamination source, including, but not limited to, septic tanks, is located for the purpose of inspecting such source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation,

or rule

6978. (a) Violation of any of the provisions of a rule or regulation adopted pursuant to subdivision (d) of Section 6976 may be abated as a public nuisance by the board The board may by regulation establish a procedure for the abatement of such a nuisance and to assess the cost of such abatement to the violator If the violator maintains the nuisance upon real property in which he has a fee title interest, the assessment shall constitute a lien upon such real property in the manner provided in subdivision (b).

(b) The amount of any costs, which are incurred by the zone in abating such a nuisance upon real property, shall be assessed to such real property and shall be added to, and become part of, the annual taxes next levied upon the real property subject to abatement and shall constitute a lien upon that real property as of the same time and in the same manner as does the tax lien securing such annual taxes All laws applicable to the collection and enforcement of county ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which such delinquent charges appear on the assessment roll, then a lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection. Any amounts of such assessments collected are to be credited to the funds of the zone from which the costs of abatement were expended

6979 (a) The owner of any real property upon which is located an on-site wastewater disposal system, which system is subject to abatement as a public nuisance by the zone, may request the zone to replace or repair, as necessary, such system. If replacement or repair is feasible, the board may provide for the necessary replacement or repair work.

(b) The person or persons employed by the board to do the work shall have a lien, subject to the provisions of subdivision (b) of Section 6978, for work done and materials furnished, and the work done and materials furnished shall be deemed to have been done and furnished at the request of the owner. The zone, in the discretion of the board, may pay all, or any part, of the cost or price of the work done and materials furnished; and, to the extent that the zone pays the cost or price of the work done and materials furnished, the zone shall succeed to and have all the rights, including, but not limited to, the lien, of such person or persons employed to do the work against the real property and the owner.

6980. A board may exercise all of the public agency's existing financial powers on behalf of a zone, excepting that any assessment or tax levied upon the real property of a zone shall be subject to the provisions of Sections 6978 and 6981.

6981. Notwithstanding any other provision of law, a public

agency may levy an assessment reasonably proportional to the benefits derived from the zone, as determined by the board, and the voters pursuant to the provisions of Article 6 (commencing with Section 2285) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code. Such benefit assessment shall be in addition to any other charges, assessments, or taxes otherwise levied by the public agency upon the property in the zone.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act because this act will be applied under limited circumstances and when so applied the requirements of the act will not result in significant identifiable increased costs.

CHAPTER 1126

An act to amend Sections 2500 and 2995 of the Business and Professions Code and to amend Section 13401 of, and to add Section 13408.5 to, the Corporations Code, relating to professional corporations

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 2500 of the Business and Professions Code is amended to read:

2500. A medical corporation is a corporation which is registered with the Division of Licensing or the Division of Allied Health Professions with reference to corporations rendering professional services as physicians and surgeons or as podiatrists or as physicians and surgeons and psychologists, and the Board of Osteopathic Examiners with reference to corporations rendering professional services as osteopathic physicians and surgeons, and has a currently effective certificate of registration from the Division of Licensing or the Division of Allied Health Professions pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such medical corporation is entitled to practice medicine or medicine and psychology. Any psychologist who is a shareholder in such corporation within the provisions of Section 13401 of the Corporations Code may practice individually the professional services for which he is licensed through and in the name of such corporation. With respect to a medical corporation, the

governmental agency referred to in the Professional Corporation Act is the Division of Licensing or the Division of Allied Health Professions with reference to corporations rendering professional services as physicians and surgeons or as podiatrists or as physicians and surgeons and psychologists and the Board of Osteopathic Examiners with reference to corporations rendering professional services as osteopathic physicians and surgeons.

SEC. 2. Section 2995 of the Business and Professions Code is amended to read:

2995. A psychological corporation is a corporation which is registered with the Psychology Examining Committee of the Board of Medical Quality Assurance of the State of California and has a currently effective certificate of registration from such committee pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code and this article. Subject to all applicable statutes, rules, and regulations, such psychological corporation is entitled to practice psychology or psychology and medicine. Any physician who is a shareholder in such corporation within the provisions of Section 13401 of the Corporations Code may practice individually the professional services for which he is licensed through and in the name of such corporation. The governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Psychology Examining Committee of the Board of Medical Quality Assurance of the State of California. As used in this article, the "committee" is the Psychology Examining Committee of the Board of Medical Quality Assurance of the State of California.

SEC. 3. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services which may be lawfully rendered only pursuant to a license, certification or registration authorized by the Business and Professions Code or the Chiropractic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law which is engaged in rendering professional services in a single profession, except as otherwise authorized, pursuant to a certificate of registration issued by the governmental agency regulating such profession as herein provided and which in its practice or business designates itself as a professional or other corporation as may be required by statute.

(c) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation of which he is or intends to become, an officer, director, shareholder or employee, provided however, that notwithstanding any other provision of this chapter, any physician licensed under the Medical Practices Act may become an officer, director or shareholder in, and

render his individual professional services through, a psychological corporation as long as the sum of all shares not owned by psychologists in a psychological corporation does not exceed 49 percent of the total number of shares; and provided that the number of physicians owning shares in a psychological corporation shall not exceed the number of psychologists owning shares in that corporation; and provided further that, notwithstanding any other provisions of this chapter, any psychologist licensed under the Psychology Licensing Act may become an officer, director or shareholder in, and render his individual professional services through, a medical corporation as long as the sum of all shares not owned by physicians and surgeons in a medical corporation does not exceed 49 percent of the total number of shares; and provided that the number of psychologists owning shares in a medical corporation shall not exceed the number of physicians owning shares in that corporation.

(d) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the same professional services which the particular professional corporation of which he is an officer, director, shareholder or employee is or was rendering.

SEC. 4. Section 13408.5 is added to the Corporations Code, to read:

13408.5. No professional corporation may be formed so as to cause any violation of law, or any applicable rules and regulations, relating to fee splitting, kickbacks, or other similar practices by physicians and surgeons or psychologists, including, but not limited to, Section 650 or subdivision (e) of Section 2960 of the Business and Professions Code. A violation of any such provisions shall be grounds for the suspension or revocation of the certificate of registration of the professional corporation. The Commissioner of Corporations may refer any suspected violation of such provisions to the governmental agency regulating the profession in which the corporation is, or proposes to be engaged.

CHAPTER 1127

An act to amend Sections 14852 and 14904 of, and to add Section 14201.5 to, the Financial Code, relating to credit unions.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 14201.5 is added to the Financial Code, to read.

14201.5. (a) Amendments to the articles of incorporation of any credit union may be adopted by resolution of the board of directors, which is also adopted by a vote of a majority of the members of the credit union present, in person or by proxy, as provided in the credit union's bylaws, at any regular or special meeting of the shareholders for which notice of such proposed amendments has been given; provided, however, that a minimum vote of at least 10 percent of the entire membership entitled to vote on the question votes in favor of the amendment and those voting in favor of the amendment constitute a majority of the members participating in the vote. The 10-percent minimum vote may be obtained by accumulating the votes obtained at the meeting, in person or by proxy, and by a mail vote which shall be taken 30 days prior or subsequent to the meeting.

(b) The commissioner may approve the amendment according to the resolution adopted by the board of directors if approved by less than 10 percent of the entire membership as provided in this section if he finds, upon the written and verified application filed by the board of directors, that (1) notice of the meeting called to consider the amendment was mailed to each member entitled to vote upon the question, (2) such notice disclosed the purpose of the meeting and properly informed the membership that approval of the amendment might be sought pursuant to this section and (3) a majority of the votes cast upon the question were in favor of the amendment.

SEC. 2. Section 14852 of the Financial Code is amended to read:

14852. No credit union shall impose late charges in case of failure of members to make payments when due, in excess of 3 percent of the payment due with a minimum of not less than five cents ($0.05). Such charge may be made only once for each delinquent payment and may not exceed five dollars ($5).

SEC. 3. Section 14904 of the Financial Code is amended to read:

14904. (a) No credit union shall make a loan in excess of one thousand dollars ($1,000) to any person under 18 years of age, unless such loan is secured in the manner provided for in subdivision (b) or (c) of Section 14907.

(b) No credit union shall make a loan which will result in any member being obligated to the credit union in excess of three thousand dollars ($3,000) or 10 percent of its paid-in and unimpaired capital and surplus, whichever is greater, but not to exceed ten thousand dollars ($10,000) plus the then unpledged shares, except that credit unions with assets of one million dollars ($1,000,000) or more may make loans to members resulting in the member being obligated to the credit union up to but not exceeding the amounts indicated in the following schedule:

Paid-in and unimpaired capital and surplus	Maximum obligation to credit union per member

$1,000,000 but less than $2,000,000	$12,000 plus the amount secured by shares of the credit union or certificates for funds
$2,000,000 but less than $3,000,000	$15,000 plus the amount secured by shares of the credit union or certificates for funds
$3,000,000 or more	⅔ of 1% of the paid-in and unimpaired capital and surplus of the credit union plus the amount secured by shares of the credit union or certificates for funds, not to exceed a maximum total loan of $100,000 per member or such greater amount as the commissioner, in his discretion, may permit.

(c) Notwithstanding the provisions of subdivision (b), no credit union shall make loans to any one family whereby total liability of the family to the credit union would be greater than double the amount permitted by the above schedule. "Family as used in this section shall mean persons related by blood or marriage and residing in the same household.

(d) If a loan is made for educational purposes and such loan would cause the aggregate of loans to any one family to exceed the limitations imposed by subdivision (c), such educational loan shall not be included in computing the aggregate of loans pursuant to subdivision (c), provided (1) that such educational loan is secured in accordance with subdivision (b) or (c) of Section 14907 and (2) that the aggregate amount of such educational loan exempted by this subdivision from subdivision (c) shall not exceed ten thousand dollars ($10,000).

CHAPTER 1128

An act to amend Section 1279 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 1279 of the Unemployment Insurance Code is amended to read:

1279. Each individual eligible under this chapter who is unemployed in any week shall be paid with respect to that week an unemployment compensation benefit in an amount equal to his weekly benefit amount less the amount of wages in excess of twenty-one dollars ($21) payable to him for services rendered during that week. The benefit payment, if not a multiple of one dollar ($1), shall be computed to the next higher multiple of one dollar ($1). For the purpose of this section only "wages" includes any and all compensation for personal services whether performed as an employee or as an independent contractor or as a juror or as a witness, but does not include any payments, regardless of their designation, made by a city of this state to an elected official thereof as an incident to such public office.

SEC 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there by an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1129

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 28, 1977. Filed by Secretary of State September 28, 1977.]

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

SECTION 1. Section 22651 of the Vehicle Code, as amended by Chapter 73 of the Statutes of 1977, is amended to read:

22651. Any member of the California Highway Patrol; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located, or any regularly employed and salaried employee, who is

engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located; may remove a vehicle from a highway under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter

2 of Division 17 In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 2 Section 22651 of the Vehicle Code, as amended by Chapter 73 of the Statutes of 1977, is amended to read:

22651. Any member of the California Highway Patrol; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the

California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located; or any police officer appointed or employed by the board of directors of a regional park district on or about lands, grounds, or properties owned, operated, or administered by the regional park district on or in which a vehicle is located; may remove a vehicle from a highway under any of the following circumstances.

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning

that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 606 are both chaptered and become effective January 1, 1978, both bills amend Section 22651 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 606, that the amendments to Section 22651 proposed by both bills be given effect and incorporated in Section 22651 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 606 are both chaptered and become effective January 1, 1978, both amend Section 22651, and this bill is chaptered after Senate Bill

No 606, in which case Section 1 of this act shall not become operative.

SEC 4 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant, identifiable cost changes

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CHAPTER 1130

An act to amend Sections 2192 and 2736 of the Business and Professions Code, and to add Sections 273ab, 1203h, and 3001 to the Penal Code, relating to child abuse

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 2192 of the Business and Professions Code is amended to read:

2192 Each applicant shall show by evidence satisfactory to the board that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the board, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the board, and the total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following.

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Psychobiology
Medicine
Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology and immunology
Pharmacology
Preventive medicine
Hygiene and sanitation
Surgery, including orthopedic surgery
Urology
Ophthalmology
Radiology

Anesthesia
Otolaryngology
Obstetrics and gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including orthopedic surgery
Urology
Ophthalmology
Pharmacology
Preventive medicine
Radiology, including radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Anesthesia
Otolaryngology
Obstetrics and gynecology
Human sexuality as defined in Section 2192.3
Child abuse detection and treatment

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the board that he or she has completed a year's service satisfactory to the board in a hospital approved by the board for first-year postgraduate studies. At the discretion of the board the written examination provided for in Section 2288 may be taken following completion of his or her medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the board that a degree has been issued to him or her by the school. The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1979.

SEC. 1.5. Section 2192 of the Business and Professions Code is amended to read:

2192. Each applicant shall show by evidence satisfactory to the board that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the board, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the board, and total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Psychobiology
Medicine
Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology and immunology
Pharmacology
Preventive medicine
Hygiene and sanitation
Surgery, including orthopedic surgery
Urology
Ophthalmology
Radiology
Anesthesia
Otolaryngology
Obstetrics and gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including orthopedic surgery
Urology
Ophthalmology
Pharmacology
Preventive medicine, including nutrition
Radiology, including radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Anesthesia
Otolaryngology
Obstetrics and gynecology
Human sexuality as defined in Section 2192.3
Child abuse detection and treatment

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the board that he or she has completed a year's service satisfactory to the board in a hospital approved by the board for first-year postgraduate studies. At the discretion of the board the written examination provided for in Section 2288 may be taken following completion of his or her medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the board that a degree has been issued to him or her by the school. The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants

who matriculate on or after September 1, 1979.

SEC 2 Section 2736 of the Business and Professions Code is amended to read:

2736. (a) An applicant for licensure as a registered nurse shall comply with each of the following:

(1) Have completed such general preliminary education requirements as shall be determined by the board.

(2) Have successfully completed the courses of instruction prescribed by the board for licensure, in a program in this state accredited by the board for training registered nurses, or have successfully completed courses of instruction in a school of nursing outside of this state which, in the opinion of the board, are equivalent to the minimum requirements of the board for licensure established for an accredited program in this state.

(3) Have committed no act, which, if committed by a licensee, would be grounds for disciplinary action

(b) An applicant who has received his or her training from a school of nursing in a country outside the United States and who has complied with the provisions of subdivision (a), or has completed training equivalent to that required by subdivision (a), shall qualify for licensure by successfully passing the examination prescribed by the board.

SEC. 3 Section 273ab is added to the Penal Code, to read

273ab. (a) It is the intent of the Legislature that nothing in this section is intended to deprive a prosecuting attorney of the ability to prosecute persons suspected of violating any section of this code in which a minor is a victim of an act of abuse or neglect to the fullest extent of the law if the prosecuting attorney so chooses.

(b) In lieu of prosecuting a person suspected of violating any section of this code in which a minor is a victim of an act of abuse or neglect when such person is referred to him or her by the local police or sheriff's department, the prosecuting attorney may refer that person to the county department in charge of public social services for counseling and such other services that the county department in charge of public social services deems necessary The prosecuting attorney shall seek the advice of the county department in charge of public social services in determining whether or not to make the referral.

SEC 4 Section 1203h is added to the Penal Code, to read

1203h. If the court initiates an investigation pursuant to subdivision (a) or (c) of Section 1203 and the convicted person was convicted of violating any section of this code in which a minor is a victim of an act of abuse or neglect, then the investigation shall include a psychological evaluation to determine the extent of counseling necessary for successful rehabilitation and which may be mandated by the court during the term of probation Such evaluation may be performed by psychiatrists, psychologists, or licensed clinical social workers The results of the examination shall be included in the probation officer's report to the court

SEC. 5. Section 3001 is added to the Penal Code, to read

3001. In considering the imposition of conditions of parole upon a prisoner convicted of violating any section of this code in which a minor is a victim of an act of abuse or neglect, the Department of Corrections shall provide for a psychological evaluation to be performed on the prisoner to determine the extent of counseling which may be mandated as a condition of parole. Such examination may be performed by psychiatrists, psychologists, or licensed clinical social workers.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 1172 are both chaptered and become effective January 1, 1978, both bills amend Section 2192 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 1172, that the amendments to Section 2192 proposed by both bills be given effect and incorporated in Section 2192 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 1172 are both chaptered and become effective January 1, 1978, both amend Section 2192, and this bill is chaptered after Assembly Bill No. 1172, in which case Section 1 of this act shall not become operative.

CHAPTER 1131

An act to repeal and add Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code, relating to business enterprises for the blind

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code is repealed.

SEC 2. Article 5 (commencing with Section 19625) is added to Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code, to read:

Article 5. Business Enterprises for the Blind

19625. For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under this article shall be authorized to operate vending facilities on any property within this state as provided in this article. In order to administer this article, the director shall establish the Business Enterprises Program for the Blind.

(a) With respect to vending facilities on state property, priority shall be given to such blind persons, including the assignment of vending machine income as provided in this article. As used in this article, "state property" means all real property, or part thereof, owned, leased, rented, or otherwise controlled or occupied by any department or other agency or body of this state, but does not include any of the following:

(1) A building in which less than 100 state employees are or will be located during normal working hours.

(2) A building in which less than 15,000 square feet of interior floor space are to be used for state government purposes or in which services are to be provided to the public.

(3) A building to be occupied by state government employees for less than three years.

(4) A safety roadside rest area.

(b) With respect to vending on federal property within this state, as provided in federal law known as the Randolph-Sheppard Act, including the amendments thereto entitled, "Randolph-Sheppard Act Amendments of 1974," this article is intended to conform thereto and is to be of no force or effect if, and to the extent that, any provision of this article or any regulation adopted under this article is in conflict therewith.

(c) With respect to all other property within this state, whether owned or controlled privately or by any county, city, city and county, or other political subdivision, the department shall take all feasible steps to encourage and establish thereon vending by blind persons licensed under this article and is authorized to that end to enter into appropriate agreements with the entities or persons owning or controlling such other property, provided that all such agreements shall be in writing and shall be in conformity with the provisions of this article.

19626. A "vending facility" is a location which may sell, at wholesale or retail, foods, beverages, confections, newspapers, periodicals, tobacco products and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with applicable health laws

A "vending facility" may consist, exclusively or in appropriate combination, of automatic vending machines, cafeterias, snackbars, cart service, shelters, counters and such appropriate equipment as the director may by regulation prescribe as being necessary for the sale of the articles or services described in the first paragraph of this section

A "vending facility" may encompass more than one building.

Licensed blind vendors shall not be required to purchase supplies or services from wholesalers who may be licensed under the provisions of this article

19627. (a) In order to implement the priority declared in subdivision (a) of Section 19625, the director shall, after consultation with and agreement by the Director of General Services and other

heads of departments or agencies in control of the maintenance, operation, and protection of state property, develop regulations designed to assure the following:

(1) That priority is given to blind persons licensed under this article, including the assignment of vending machine income as provided in this article.

(2) Whenever feasible, one or more vending facilities shall be established on all state property to the extent that any such facility or facilities would not adversely affect the interests of the state. Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the state shall be fully justified in writing to the director, who shall determine whether such limitation is justified. The Director of General Services is authorized to construct and install or permit the construction and installation of a vending facility on any property owned or occupied by the state. In the case of leased space, costs shall be shared by agencies occupying such space as determined by the Director of General Services.

(b) The director is authorized, in consultation with the head of the department or agency in control of the maintenance, operation, and protection of the state property on which the facility is to be located, but subject to regulations pursuant to subdivision (a), to select a location for such facility and the type of facility to be provided.

(c) Each department or agency shall provide notice to the director of its plans for occupation, acquisition, renovation or relocation of a property adequate to permit the director to determine in accordance with regulations developed pursuant to subdivision (a) whether such property includes a satisfactory site or sites for a vending facility.

(d) After January 1, 1978, no department or agency of the state shall undertake to acquire by ownership, rent or lease, or to otherwise occupy, in whole or in part, any property unless, after consultation with the head of such department or agency, it is determined by the director in accordance with regulations developed pursuant to subdivision (a) either (1) that such property includes a satisfactory site or sites for the location and operation of a vending facility by a blind person; or (2) that, if a building is to be constructed, substantially altered or renovated, or, in the case of a building that is already occupied on such date by such department or agency, is to be substantially altered or renovated for use by such department or agency, the design for such construction, substantial alteration or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person.

(e) The provisions of subdivision (d) shall not apply when the director determines that the number of people using the property is or will be insufficient to support a vending facility.

(f) For the purpose of this section, the term "satisfactory site" means an area determined by the director to have sufficient space,

electrical and plumbing outlets, and such other facilities as the director may by regulation prescribe, for the location and operation of a vending facility by a blind person.

(g) If the director determines that any agency or department of the state fails to comply with the provisions of this section, the director may establish a panel to arbitrate the dispute and the decision of such panel shall be final and binding on all parties.

The arbitration panel convened by the director shall be composed of three members, appointed as follows:

(1) One individual by the director.

(2) One individual by the agency or department having care, custody or control of the premises.

(3) One individual who shall serve as chairman, jointly designated by the members appointed under (1) and (2). If either party fails to agree on an individual, the director shall designate a hearing officer from the Office of Administrative Hearings who shall preside.

(h) The provisions of this section shall not apply to existing employee-operated, nonprofit organizations operating vending facilities that include manual cafeteria operations on state property.

This section shall not be construed to require that such employee-operated, nonprofit organizations shall discontinue operating vending facilities that include manual cafeteria operations on state property as of the effective date of this section

19628. The governing board of any county, city, city and county, or other political subdivision or the persons or entities owning or controlling private property, may construct and install on their property, or permit the construction and installation of, vending facilities for operation by blind persons licensed under this article. The amount of space allotted for this purpose shall be sufficient to serve adequately the number of persons to be served and provide the kind of services to be rendered.

19629 (a) The department shall provide that, if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, only to the extent necessary, but not to exceed the amount equal to 6 percent of gross sales, for, and may be used only for, the following purposes

(1) Maintenance and replacement of equipment.

(2) The purchase of new equipment.

(3) The construction of new vending facilities.

(4) Loans to vendors for initial stock.

(5) Funding the functions of the committee of blind vendors established by Section 19638.

(6) Retirement or pension funds, health insurance contributions, or provision for paid sick leave or vacation time, if it is so determined by a majority vote of blind vendors after the department provides to each such vendor full information on all matters relevant to such purposes

(b) No set-aside funds shall be collected where the monthly net

proceeds are less than four hundred dollars ($400). This amount shall be annually adjusted by the department to reflect changes in the cost of living subsequent to January 1, 1978 The average of the separate indices of cost of living for Los Angeles and San Francisco, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the change in the cost of living.

(c) Set-aside funds collected from the operation of all vending facilities administered by the Business Enterprise Program shall be placed in a single special deposit fund.

(d) As used in subdivision (a) "net proceeds" shall be the sum of the amount remaining from the sale of articles or services and the amount of any vending machine or other income accruing to blind vendors after the cost of such sale and other expenses (excluding set-aside charges required to be paid by such blind vendors) have been deducted.

(e) It is the intent of the Legislature that the expenditure of such service charges as are authorized by this section shall be supplemental to and in augmentation of any current appropriations available for such purposes and shall not constitute an offset or diminution of any such appropriations

(f) An amount equal to 6 percent of the wages paid by a vendor to any blind person, as defined in Section 19153, or to any disabled person, as defined in regulations issued by the department, shall be deducted from any service charge paid by the vendor, in order to encourage vendors to employ more blind and disabled workers and thereby set an example for industry and government. There shall be no deduction from any service charge paid by a vendor if the vendor does not pay wages at least equal to the minimum wages required of employers pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

19630. (a) After July 1, 1978, all vending machine income from vending machines on state property shall accrue to (1) the blind vendor operating a vending facility on such property, or (2) in the event there is no blind vendor operating such facility on such property, to the department for the uses designated in subdivision (d).

(b) The department may, notwithstanding subdivision (d), distribute vending machine income accruing under paragraph (2) of subdivision (a) to a blind vendor of a facility not meeting the standard specified in Section 19631 on the effective date of that section, provided that such distribution was being made on January 1, 1977, and provided that such distribution shall not be in greater amount than was being made on January 1, 1977

(c) The director shall insure compliance with this section with respect to buildings, installations, and facilities, and shall be responsible for collection of, and accounting for, such vending machine income.

Any limitation on the placement or operation of a vending machine based on a finding that such placement or operation would

adversely affect the interests of the state shall be fully justified in writing to the director. The director shall determine whether such limitation is justified, and if dissatisfied with the justification, may submit the matter for arbitration to the panel established by Section 19627.

(d) All vending machine income which accrues to the department shall be used to establish retirement or pension plans or to provide health insurance contributions or paid sick leave or vacation time, subject to a vote of blind vendors as provided under paragraph (4) of subdivision (a) of Section 19629. Any vending machine income remaining after such application shall be used for the purposes specified in paragraph (1), (2), (3), (4), or (5) of subdivision (a) of Section 19629, and any assessment charged to blind vendors by the department shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

(e) "Vending machine income" means receipts, other than those of a blind vendor, from vending machine operations on state property, after cost of goods sold at competitive prices, including reasonable service and maintenance costs, where the machines are operated, serviced, or maintained by, or with the approval of, a department or other agency of the state, or commissions paid, other than to a blind vendor, by a commercial vending concern which operates, services, and maintains vending machines on state property for, or with the approval of, a department or agency of the state.

(f) Vending machine income from vending machines on property referred to in subdivision (c) of Section 19625 may, pursuant to agreement as there provided, accrue to (1) the blind vendor operating a vending facility on such property, or (2) in the event there is no blind vendor operating such facility on such property, to the department for the uses designated in subdivision (d) of this section.

(g) The provisions of this section shall not apply to vending machine income from vending machines operated by existing, incorporated, employee-operated, nonprofit organizations that were incorporated prior to January 1 1977. This subdivision shall not preclude preexisting or future arrangements for such organizations to share vending machine income with blind vendors

19631. The department shall not cause or permit the establishment or placement of any blind vendor in a vending facility unless the director first determines that the facility produces, or is likely to produce within a reasonable time an adequate net income for a blind vendor.

Nothing in this article prohibits the entity or person controlling property on which a vending facility is located from making to the blind vendor operating it payments in supplementation of proceeds realized from sales.

19632. Licenses shall be issued only to applicants who are blind within the meaning of Section 19153 and who are qualified to operate

vending facilities. The continuing eligibility of a vendor as a blind person shall be reviewed annually

The person, governing board, or legislative body having the care, custody, and control of the building in which a vending facility is operated pursuant to this article, has the power to approve, disapprove, or withdraw approval of the person operating a vending facility, but only for good cause.

Each license shall be issued for an indefinite period A license may be terminated by the department for good cause but only after providing the licensee an opportunity for a full and fair hearing in accordance with the provisions of this article. The removal of a licensee upon the request of the person, governing board, or legislative body having the care, custody and control of the property in which a vending facility is operated shall not require a finding of ineligibility for licensing.

19633. The vendor of each vending facility is subject to the provisions of any ordinance of the county or city in which the facility is located requiring a license or permit for the conduct of such business, but any such license or permit shall be issued free of charge to a blind person licensed by the department.

19634 Blind persons who are authorized to operate vending facilities under this article may keep their guide dogs with them on the property while operating the vending facilities.

19635. Any blind vendor who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to the department a request for a full evidentiary hearing, which shall be provided by the department. If such blind vendor is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary of Health, Education, and Welfare who shall convene a panel to arbitrate the dispute pursuant to Section 6 of the Randolph-Sheppard Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in that act

19636. The director shall assign adequate personnel to carry out duties related to the administration of this article In selecting personnel to fill any position under this section, the director shall comply with the discrimination prohibition of subdivision (a) of Section 1420 of the Labor Code

19637 The director shall provide to each blind vendor access to all relevant financial data, including quarterly and annual financial reports on the operation of the state vending facility program and access to his or her performance rating or other personal data maintained by the department in regard to him or her

19638. The director shall conduct a biennial election by secret ballot of a committee of licensed blind vendors who shall be fully representative of all blind licensees in the state program Representation shall be no less than one committee member for every 25 licensed vendors. At the discretion of the committee, major issues may be referred to all the blind vendors in order to ascertain

their views Only licensed blind persons operating a facility shall serve on this committee or vote in any poll or election authorized under this article The members shall be reimbursed for their actual and necessary expenses in participating in committee functions.

The director shall insure that such committee's responsibilities include:

(a) Participation, with the department, in major administrative decisions and policy and program development;

(b) Receiving grievances of blind vendors and serving as advocates for such vendors;

(c) Participation, with the department, in the development and administration of a transfer and promotion system for blind vendors;

(d) Participation, with the department, in developing training and retraining programs; and

(e) Sponsorship, with the assistance of the department, of meetings and instructional conferences for blind vendors.

19639. The director shall adopt and promulgate necessary rules and regulations and do all things necessary and proper to carry out the provisions of this article

19640. The director shall contract with the Director of General Services to conduct a survey of all vending machines, coin-operated or otherwise, on all state property, and shall report within 180 days of the effective date of this article their findings and recommendations as to the disbursement of vending machine income to the Legislature The report shall include, but not be limited to, identification of each entity installing or servicing vending machines on state property, fiscal terms and disbursement practices

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CHAPTER 1132

An act to add Sections 17237.5 and 24380 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 17237.5 is added to the Revenue and Taxation Code, to read:

17237.5. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access

handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle.

(b) The deduction authorized by this section shall be taken with respect to the taxable year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any taxable year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer, the taxpayer's family, or the general public, in the taxpayer's business or trade or the taxpayer's place of residence; provided, that such residence is located within the State of California.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any taxable year

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may prescribe regulations as to the deductibility of repairs or remodeling with respect to residences in cooperation with the Department of Rehabilitation and the Office of the State Architect

(i) This section shall apply to taxable years beginning after December 31, 1976 and before January 1, 1980.

SEC. 2. Section 24380 is added to the Revenue and Taxation Code, to read·

24380. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access

handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle, provided that the repair or remodeling meets one or more standards established pursuant to Section 4450 or 4451 of the Government Code. In the absence of such state standards, those standards established by the Secretary of the Treasury of the United States with the concurrence of the Architectural and Transportation Barriers Compliance Board shall be used.

(b) The deduction authorized by this section shall be taken with respect to the income year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any income year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer or the general public, in the taxpayer's business or trade.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed twenty-five thousand dollars ($25,000) with respect to any taxpayer for any income year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(i) This section shall apply to income years beginning after December 31, 1976 and before January 1, 1980.

SEC. 3 This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect However, the provisions of this act shall be applied in the computation of taxes for taxable years and income years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act

shall apply in the computation of taxes for taxable years and income years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 1133

An act to add Section 1267.5 to the Health and Safety Code, relating to health

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 1267.5 is added to the Health and Safety Code, to read

1267.5. (a) Each applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the state department the name and business address of each general partner if the applicant is a partnership, or each director and officer if the applicant is a corporation, and each person having a beneficial ownership interest of 10 percent or more in the applicant corporation or partnership. Additionally, if any such person has served or currently serves as an administrator, general partner, or corporate officer or director of, or has held a beneficial ownership interest of 10 percent or more in, any other skilled nursing facility or intermediate care facility or in any community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of this division, the applicant shall disclose the relationship to the state department, including the name and current or last address of the health facility or community care facility and the date such relationship commenced and, if applicable, the date it was terminated.

(b) On and after January 1, 1978, no person may acquire a beneficial interest of 10 percent or more in any corporation or partnership licensed to operate a skilled nursing facility or intermediate care facility, nor may any person become an officer or director of, or general partner in, such a corporation or partnership without the prior written approval of the state department. Each application for departmental approval pursuant to this subdivision shall include the information specified in subdivision (a) as regards the person for whom the application is made.

If the state department fails to approve or disapprove such an application within 30 days after receipt thereof, the application shall be deemed approved.

(c) The state department may deny approval of a license application or of an application for approval under subdivision (b) if a person named in the application, as required by this section, was

an officer, director, general partner, or owner of a 10-percent or greater beneficial interest in a licensee of a skilled nursing facility, intermediate care facility, or community care facility at a time when one or more violations of law were committed therein which resulted in suspension or revocation of its license. However, such prior suspension or revocation of a license shall not be grounds for denial of the application if the applicant shows to the satisfaction of the state department (1) that the person in question took every reasonably available action to prevent the violation or violations which resulted in the disciplinary action and (2) that he or she took every reasonably available action to correct such violation or violations once he or she knew, or with the exercise of reasonable diligence should have known of, the violation or violations.

(d) No application shall be denied pursuant to this section until the state department first (1) provides the applicant with notice in writing of grounds for the proposed denial of application, and (2) affords the applicant an opportunity to submit additional documentary evidence in opposition to the proposed denial.

(e) Nothing in this section shall cause any individual to be personally liable for any civil penalty assessed pursuant to Chapter 2.4 (commencing with Section 1417) of this division or create any new criminal or civil liability contrary to general laws limiting such liability

(f) The provisions of this section shall not apply to a bank, trust company, financial institution, title insurer, controlled escrow company, or underwritten title company to which a license is issued in a fiduciary capacity.

(g) As used in this section, "person" has the same meaning as specified in Section 19.

(h) The provisions of this section shall not apply to the directors of a nonprofit corporation exempt from taxation under Section 23701d of the Revenue and Taxation Code which operates a skilled nursing facility or intermediate care facility in conjunction with a licensed residential facility, where such directors serve without financial compensation and are not compensated by the nonprofit corporation in any other capacity.

CHAPTER 1134

An act to amend Section 3 of Chapter 1002 of the Statutes of 1972, relating to sales and use taxes, to take effect immediately, tax levy.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 3 of Chapter 1002 of the Statutes of 1972 is amended to read:

Sec. 3. The provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 60 days after the effective date of this act to December 31, 1979, inclusive, and after that date shall have no further force or effect.

SEC 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act

SEC 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1135

An act to add Sections 2510, 42243 6, and 85122 to the Education Code, to add Section 905 3 to the Government Code, to amend Sections 2207, 2231, 2233, 2234, 2246, and 2253 of, to amend and renumber Section 2234 of, and to add Sections 2207.5, 2208.5, 2230 5, 2253 2, 2253 5, and 2253.8 to, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1 Section 2510 is added to the Education Code, to read

2510. The maximum tax rate which may be levied by, or on behalf of, a county superintendent of schools may be increased by a rate which will provide the amount necessary to pay costs mandated by the courts, as defined in Section 2205 of the Revenue and Taxation Code, pursuant to final court orders issued after January 1, 1978, to pay costs mandated by the federal government, as defined in Section 2206 of the Revenue and Taxation Code, pursuant to any federal statutes or regulations enacted or issued after January 1, 1978, and to pay costs mandated by an initiative enactment, as defined in Section 2206 5 of the Revenue and Taxation Code, by means of any initiative statutes or amendments adopted or enacted after January 1, 1978

The Controller may audit any rate imposed under this section and any data related to the establishment thereof If the Controller determines that such rate exceeds a rate which would be necessary to meet the federally mandated, initiative-mandated, or court-mandated costs, or if the Controller determines that such rate has been levied to pay any cost mandated by a court which has resulted from litigation entered into in order to avoid the property tax rate limits established by this chapter, or if the Controller

determines that a county superintendent of schools has erroneously concluded that the county superintendent is subject to costs mandated by the courts or costs mandated by the federal government, the Controller shall immediately notify the county superintendent of schools of such determination, and the county superintendent of schools shall reduce the property tax rate by an appropriate amount for the next succeeding fiscal year. In the event that a county superintendent of schools fails to make such a reduction in the property tax rate, the Controller shall request the Attorney General to bring an action under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to force a reduction in the rate.

An additional property tax heretofore or hereafter levied pursuant to the provisions of this section shall not be invalidated and may continue to be levied to meet recurring costs resulting from any program or activity undertaken or implemented by a county superintendent of schools in order to comply with a mandate by the federal government, by initiative enactment, or the courts, notwithstanding the reversal, repeal, stay, or invalidation of such mandate, if the reversal, repeal, stay, or invalidation of the mandate occurred or occurs after the county superintendent of schools has made such additional levy to satisfy continuing contractual obligations entered into in order to undertake, implement or continue the mandated program or activity

The additional rate shall not continue to be levied if the reversal, repeal, stay, or invalidation of the mandate is upheld by a final court order.

SEC. 2. Section 42243.6 is added to the Education Code, to read:

42243.6. The revenue limit of a school district, as determined under Section 42238, may be increased by the amount necessary to pay costs mandated by the courts, as defined in Section 2205 of the Revenue and Taxation Code, pursuant to final court orders issued after January 1, 1978, to pay costs mandated by the federal government, as defined in Section 2206 of the Revenue and Taxation Code, pursuant to any federal statutes or regulations enacted or issued after January 1, 1978, and to pay costs mandated by an initiative enactment, as defined in Section 2206.5 of the Revenue and Taxation Code, by means of any initiative statutes or amendments adopted or enacted after January 1, 1978.

The Controller may audit any revenue limit increase under this section and any data related to the establishment thereof. If the Controller determines that such limit exceeds a limit which would be necessary to meet the federally mandated, initiative-mandated, or court-mandated costs, or if the Controller determines that such limit has been increased to pay any cost mandated by a court which has resulted from litigation entered into in order to avoid the revenue limits established by this chapter or if the Controller determines that a school district has erroneously concluded that it is subject to costs mandated by the courts or costs mandated by the federal

government, the Controller shall immediately notify the governing board of the school district of such determination, and the school district shall reduce its revenue limit by an appropriate amount for the next succeeding fiscal year. In the event that a school district fails to make such a reduction in its revenue limit, the Controller shall request the Attorney General to bring an action under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to force a reduction in the limit.

An increase in the revenue limit heretofore or hereafter established pursuant to the provisions of this section shall not be invalidated and may continue to be in effect to meet recurring costs resulting from any program or activity undertaken or implemented by a school district in order to comply with a mandate by the federal government, by initiative enactment, or the courts, notwithstanding the reversal, repeal, stay, or invalidation of such mandate, if the reversal, repeal, stay, or invalidation of the mandate occurred or occurs after the school district has increased its revenue limit to satisfy continuing contractual obligations entered into in order to undertake, implement or continue the mandated program or activity.

The increase in the revenue limit shall not continue in effect if the reversal, repeal, stay, or invalidation of the mandate is upheld by a final court order.

SEC. 3. Section 85122 is added to the Education Code, to read.

85122. The maximum tax rate which may be levied by, or on behalf of, a community college district may be increased by a rate which will provide the amount necessary to pay costs mandated by the courts, as defined in Section 2205 of the Revenue and Taxation Code, pursuant to final court orders issued after January 1, 1978, to pay costs mandated by the federal government, as defined in Section 2206 of the Revenue and Taxation Code, pursuant to any federal statutes or regulations enacted or issued after January 1, 1978, and to pay costs mandated by initiative enactment, as defined in Section 2206.5 of the Revenue and Taxation Code, by means of any initiative statutes or amendments adopted or enacted after January 1, 1978.

The Controller may audit any rate imposed under this section and any data related to the establishment thereof. If the Controller determines that such rate exceeds a rate which would be necessary to meet the federally mandated, initiative-mandated, or court-mandated costs, or if the Controller determines that such rate has been levied to pay any cost mandated by a court which has resulted from litigation entered into in order to avoid the property tax rate limits established by this chapter, or if the Controller determines that a community college district has erroneously concluded that it is subject to costs mandated by the courts or costs mandated by the federal government, the Controller shall immediately notify the governing board of the community college district of such determination, and the district shall reduce its property tax rate by an appropriate amount for the next succeeding

fiscal year. In the event that a district fails to make such a reduction in its property tax rate, the Controller shall request the Attorney General to bring an action under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to force a reduction in the rate.

An additional property tax heretofore or hereafter levied pursuant to the provisions of this section shall not be invalidated and may continue to be levied to meet recurring costs resulting from any program or activity undertaken or implemented by a community college district in order to comply with a mandate by the federal government, by initiative enactment, or the courts, notwithstanding the reversal, repeal, stay, or invalidation of such mandate, if the reversal, repeal, stay, or invalidation of the mandate occurred or occurs after the district has made such additional levy to satisfy continuing contractual obligations entered into in order to undertake, implement or continue the mandated program or activity.

The additional rate shall not continue to be levied if the reversal, repeal, stay, or invalidation of the mandate is upheld by a final court order.

SEC. 3.5. Section 905.3 is added to the Government Code, to read:

905.3. Notwithstanding any other provision of law to the contrary, no claim shall be submitted by a local agency or school district, nor shall a claim be considered by the Board of Control pursuant to Section 905.2, if such claim is eligible for consideration by the Board of Control pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code

SEC. 4. Section 2207 of the Revenue and Taxation Code is amended to read:

2207. "Costs mandated by the state" means any increased costs which a local agency is required to incur as a result of the following:

(a) Any law enacted after January 1, 1973, which mandates a new program or an increased level of service of an existing program;

(b) Any executive order issued after January 1, 1973, which mandates a new program;

(c) Any executive order issued after January 1, 1973, which (i) implements or interprets a state statute and (ii), by such implementation or interpretation, increases program levels above the levels required prior to January 1, 1973.

SEC. 5. Section 2207.5 is added to the Revenue and Taxation Code, to read:

2207.5. "Costs mandated by the state" means any increased costs which a school district is required to incur as a result of the following:

(a) Any law enacted after January 1, 1973, which mandates a new program or an increased level of service of an existing program;

(b) Any executive order issued after January 1, 1978, which mandates a new program;

(c) Any executive order issued after January 1, 1978, which (i) implements or interprets a state statute and (ii), by such implementation or interpretation, increases program levels above the levels required prior to January 1, 1978.

SEC. 6. Section 2208.5 is added to the Revenue and Taxation Code, to read:

2208.5. "School district" means any school district, community college district, or county superintendent of schools.

SEC. 6.5. Section 2230.5 is added to the Revenue and Taxation Code, to read:

2230.5. Notwithstanding the provisions of Sections 2229 and 2230, prior to the end of each calendar year, commencing with the 1978 calendar year, the Department of Finance shall review all statutes enacted and executive orders issued during such calendar year which contain provisions relating to Sections 2229 and 2230. The department shall cause to be included in each Budget Bill the amount necessary to provide for reimbursement to local agencies and school districts for the net property tax revenue losses and for reimbursement to cities and counties for the net revenue losses caused by any sales or use tax exemption.

SEC. 7. Section 2231 of the Revenue and Taxation Code is amended to read:

2231. (a) The state shall reimburse each local agency for all "costs mandated by the state", as defined in Section 2207. The state shall reimburse each school district only for those "costs mandated by the state" as defined in Section 2207.5

(b) For the initial fiscal year during which such costs are incurred reimbursement funds shall be provided as follows: (1) any statute mandating such costs shall provide an appropriation therefor, and (2) any executive order mandating such costs shall be accompanied by a bill appropriating the funds therefor, or, alternatively, an appropriation for such funds shall be included in the Budget Bill for the next following fiscal year.

In subsequent fiscal years appropriations for such costs shall be included in the State Budget and in the Budget Bill.

(c) The amount appropriated for such purposes shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies as follows:

(1) For the initial fiscal year during which such costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 45 days of the operative date of the mandate, a claim for reimbursement as well as its estimate of the costs required by such mandate for the current fiscal year. The Controller shall pay such claims from the funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim which he determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit such claims to the Controller by October 31 The Controller shall pay such claims from funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which he determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in the previous fiscal year.

SEC. 8. Section 2233 of the Revenue and Taxation Code, as added by Section 1 of Chapter 105 of the Statutes of 1975, is amended to read:

2233. No claim shall be made pursuant to Sections 2229 and 2231 nor shall any payment be made on claims submitted pursuant to Sections 2229 and 2231 unless such claims exceed two hundred dollars ($200).

SEC. 8.5. Section 2234 of the Revenue and Taxation Code, as amended and renumbered by Section 32 of Chapter 309 of the Statutes of 1977, is amended and renumbered to read.

2236. In the event that the amount appropriated for reimbursement purposes pursuant to Section 2231 is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. The Controller shall adjust prorated claims if supplementary funds are appropriated for this purpose.

In the event that the Controller finds it necessary to prorate claims as provided by this section, he shall immediately report such action to the Department of Finance and to the chairman of the respective committees in each house of the Legislature which consider appropriations.

SEC 8.6. Section 2234 of the Revenue and Taxation Code, as added by Chapter 486 of the Statutes of 1975, is amended to read:

2234. If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for such costs incurred after the operative date of such mandate and the local agency or school district shall reduce its maximum property tax rate or revenue limit and its actual tax rate levied for such purpose by an equivalent amount.

SEC. 9. Section 2246 of the Revenue and Taxation Code is amended to read:

2246. (a) Before the end of each calendar year the Department of Finance shall review all statutes enacted during such calendar year which (1) contain provisions making inoperative Section 2229, 2230, 2231, or 2234 or (2) have resulted in costs or revenue losses mandated by the state which were not identified when the statute was enacted. Such review shall identify the costs or revenue losses involved in complying with the provisions of such statutes. The Department of

Finance shall submit to the Legislature an annual report of the review required by this subdivision, together with such recommendations as it may deem appropriate

(b) The department shall review, on a one-time basis, all statutes enacted prior to calendar year 1977 but after January 1, 1973, which either (1) contain provisions making inoperative Section 2231 or 2234, or (2) have resulted in costs mandated by the state which were identified after the statute was enacted, and for which no state reimbursement or inadequate state reimbursement has been provided. Such review, in part, shall be based upon information which may be submitted by local agencies and school districts in a form prescribed by the department. It is the intent of the Legislature to encourage such local agencies and school districts to submit such information to facilitate such review. Such review shall identify the costs involved in complying with the provisions of such statutes The department shall submit a report to the Legislature on or before July 1, 1978, regarding such review.

SEC. 10 Section 2253 of the Revenue and Taxation Code, as amended by Assembly Bill 99 of the 1977–78 Regular Session of the Legislature, is amended to read:

2253. Claims submitted pursuant to this article for reimbursement, as required by Section 2231, of a cost mandated by the state shall be limited to the following.

(a) A claim alleging that the Controller has incorrectly reduced payments to a local agency pursuant to the provisions of paragraph (2) of subdivision (d) of Section 2231;

(b) A claim alleging that a chaptered bill or an executive order has resulted in costs mandated by the state and that such bill or executive order contains a provision making inoperative Section 2231 or 2234, or

(c) A claim which has not been paid because it was submitted to the Controller after the deadline specified in subdivision (d) of Section 2231; provided that any claim submitted pursuant to this subdivision shall be allowed in an amount equal to 80 percent of the amount which would have been allowed pursuant to subdivision (d) of Section 2231; or

(d) A claim alleging that a chaptered bill has resulted in costs mandated by the state and that such bill contains neither a provision making inoperative Section 2231 or 2234 nor an appropriation to reimburse the claimant for such costs.

Subdivisions (b) and (d) of this section shall apply only to claims submitted under a bill chaptered after January 1, 1973, for all costs incurred after January 1, 1978.

SEC. 11. Section 2253.2 is added to the Revenue and Taxation Code, to read:

2253.2. (a) The Board of Control shall, within ten days after receipt of the first claim based upon each chaptered bill or executive order as described in subdivisions (b) and (d) of Section 2253, set a date for a public hearing on such claim within a reasonable time. Such

claims shall be submitted in a form prescribed by the board After a hearing in which the claimant and any other interested organization or individual may participate, the board, if it determines a cost was mandated, shall adopt parameters and guidelines for reimbursement of any claims relating to such bill or executive order. The board may, after due public notice and hearing, amend, modify, or supplement such parameters and guidelines.

The board shall include in its report to the Legislature required under Section 2255 the number and amount of claims awarded pursuant to this section. The local government claims bill, specified in Section 2255, at the time of its introduction shall provide for an appropriation sufficient to pay all claims awarded pursuant to this section.

(b) The Board of Control shall not consider any claim submitted by a local agency or school district unless such claim exceeds two hundred dollars ($200). The board shall not consider any claim submitted by a local agency or school district if the board finds that:

(1) The chaptered bill was requested by or on behalf of the local agency or school district which desired legislative authority to implement the program specified in the bill; or

(2) The chaptered bill affirmed for the state that which had been declared existing law or regulation by action of the courts or the federal government; or

(3) The chaptered bill provided for self-financing authority, unless the mandated cost exceeds the revenue from the additional self-financing authority; or

(4) The chaptered bill imposed duties which were expressly approved by a majority of the voters of the state through the initiative process; or

(5) The chaptered bill created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction.

(6) The chaptered bill provides for offsetting savings to local agencies or school districts which result in no net costs to such local agencies or school districts.

The Legislature declares that the purpose of this section is to encourage local agencies and school districts to file claims for reimbursement with much more advance knowledge of the extent of possible reimbursement and to provide for a more expeditious and efficient claims process.

SEC. 12. Section 2253.5 is added to the Revenue and Taxation Code, to read:

2253.5. A claimant or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the Board of Control on the grounds that the board's decision is not supported by substantial evidence. The court may order the board (a) to hold another hearing regarding such claim; or (b) to include the amount of such claim in its report to the Legislature pursuant to Section 2255 so that the

amount of such claim can be included in the local government claims bill specified in such section.

SEC 13. Section 2253.8 is added to the Revenue and Taxation Code, to read:

2253.8. In no case shall a claim be considered which is submitted more than one year after the deadlines specified in subdivision (d) of Section 2231.

SEC. 14. The amount of one hundred twenty thousand three hundred forty-three dollars ($120,343) is hereby appropriated from the General Fund for use during the period commencing January 1, 1978, and ending June 30, 1978, to be allocated as follows:

(a) Twenty-four thousand dollars ($24,000) to the State Board of Control for the implementation of this act.

(b) Sixty-six thousand dollars ($66,000) to the State Department of Finance for the implementation of this act.

(c) Thirty thousand three hundred forty-three dollars ($30,343) to the State Controller for the implementation of this act

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CHAPTER 1136

An act to amend Section 2286 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 2286 of the Revenue and Taxation Code is amended to read:

2286. (a) No local agency formed after the effective date of this chapter shall levy, or have levied on its behalf, any property tax rate, except an additional property tax rate authorized pursuant to Article 5 (commencing with Section 2270) of this chapter, unless a maximum property tax rate has been approved for such agency. If an election is held on the formation of a local agency, the maximum property tax rate for such agency shall be included in describing the local agency on the ballot in the formation question.

(b) In the event that a local agency which was in existence on the effective date of this chapter desires to change its maximum property tax rate, the governing body of such agency shall call a special election, pursuant to the provisions of this article, to approve a new maximum property tax rate for the agency

(c) No maximum property tax rate described in subdivision (a) or (b) shall be approved except by a majority vote of the qualified voters of that local agency voting on the issue

(d) Subdivisions (a), (b) and (c) of this section shall not apply to

an improvement district formed prior to, or after, the effective date of this chapter for the purpose of levying an ad valorem tax as defined in Section 2202 of the Revenue and Taxation Code for the purpose of apportioning the costs of facilities and services made available by a local agency, so long as the total property tax rate within such improvement district does not exceed the maximum rate which could be levied upon the property therein by a local agency without regard to the existence of such improvement district.

(e) Subdivisions (a), (b) and (c) shall not apply to an improvement district formed for the purpose of issuing bonds if the issuance of such bonds has been approved by the electorate of such improvement district

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the affected districts to be able to apportion the costs of services in relation to the benefits received in an equitable manner for the next fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1137

An act to amend Sections 42, 27000, 27002, 27007, 27031, 27036, 27210, 27211, 27304, and 27333 of to amend and renumber Sections 27030 and 27034 of, to add Sections 27008, 27031.5, 27211.5, and 27230.5 to, and to repeal Sections 27008, 27009, 27010, 27314, and 27322 of, the Elections Code, relating to elections.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 42 of the Elections Code is amended to read:

42. Any person who is a voter may circulate an initiative, referendum or recall petition in accordance with the provisions of this code.

SEC. 2. Section 27000 of the Elections Code is amended to read:

27000. This division governs the recall of elective officers of the State of California and of all counties, cities, school districts, county boards of education, community college districts, special districts, and judges of courts of appeal and trial courts. It does not supersede the provisions of a city charter or county charter, or of ordinances adopted pursuant to a city charter or county charter, relating to recall.

SEC. 3. Section 27002 of the Elections Code is amended to read:

27002. For the purposes of this division, "clerk" means the county clerk in the case of the recall of elective officers of a county, school district, county board of education, community college district, or resident voting district, and of judges of trial courts; the city clerk in the case of the recall of elective officers of a city; and the secretary of the governing board in the case of the recall of elective officers of a landowner voting district or any district in which, at a regular election, candidate's nomination papers are filed with the secretary of the governing board.

SEC 4. Section 27007 of the Elections Code is amended to read:

27007 Proceedings may be commenced for the recall of any elective officer, including any officer appointed in lieu of election or to fill a vacancy, by the service, filing and publication or posting of a notice of intention to circulate a recall petition pursuant to this chapter.

SEC. 5. Section 27008 of the Elections Code is repealed.

SEC. 6. Section 27008 is added to the Elections Code, to read:

27008. Proceedings may not be commenced against an officer of a city, county, special district, school district, community college district, or county board of education if·

(a) He has not held office during his current term for more than 90 days.

(b) A recall election has been determined in his favor within the last six months.

(c) His term of office ends within six months or less.

SEC 7. Section 27009 of the Elections Code is repealed

SEC. 8. Section 27010 of the Elections Code is repealed.

SEC. 9. Section 27030 of the Elections Code is amended and renumbered to read:

27030.5. No signature may be affixed to the petition until the proponents have served, filed and published or posted a notice of intention pursuant to this chapter.

SEC 10. Section 27031 of the Elections Code is amended to read:

27031. Before any signature may be affixed to a recall petition, each page of each section must bear all of the following in no less than six-point type:

(a) A request that an election be called to elect a successor to the officer; or, in the case of a city recall, a request that an election be called to determine whether the officer shall be removed from office and whether the vacancy, if any, shall be filled by appointment or special election.

(b) A copy of the notice of intention, including the statement of grounds for recall.

(c) The answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.

SEC. 11. Section 27031.5 is added to the Elections Code, to read:

27031.5. The proponents shall file two blank copies of the petition with the county clerk or, in the case of a recall of a state officer, with

the Secretary of State, who shall ascertain if the proposed form and wording of the petition meets the requirements of this chapter. The county clerk or, in the case of a recall of a state officer, the Secretary of State, shall notify the proponents in writing of his finding. If he finds that the requirements of this chapter are not met, he shall include in his findings a statement as to what alterations in the petition are necessary. The proponents shall then file two blank copies of the corrected petition with him.

No signature may be affixed to a recall petition until the county clerk or, in the case of the recall of a state officer, the Secretary of State, has notified the proponents that the form and wording of the proposed petition meet the requirements of this chapter.

SEC. 12. Section 27034 of the Elections Code is amended and renumbered, to read:

27030. The petition may consist of any number of separate sections, which shall be duplicates except as to signatures and matters required to be affixed by signers and circulators. The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

Each section may consist of any number of separate pages. A page shall consist of each side of a sheet of paper on which any signatures appear.

SEC. 13. Section 27036 of the Elections Code is amended to read:

27036 Each section of the petition shall have attached to it a declaration signed by the circulator of that section of the petition, setting forth all of the following:

(a) The printed name of the circulator

(b) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(c) That the circulator circulated that section and saw the appended signatures being written

(d) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(e) That the circulator is a registered voter of the electoral jurisdiction of the officer sought to be recalled.

(f) The dates between which all the signatures to the petition were obtained.

(g) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury, with the signature of his name at length including given name, middle name or initial, or initial and middle name. The circulator shall date the declaration immediately following his signature.

SEC. 14. Section 27210 of the Elections Code is amended to read:

27210. A recall petition shall be submitted to the clerk for filing within the following number of days after the county clerk or, in the case of a recall of a state officer, the Secretary of State, notifies the proponents that the form and wording of the petition meets the

requirements of Chapter 1 (commencing with Section 27000) of this division:

(a) Forty days if the electoral jurisdiction has less than 1,000 registered voters

(b) Sixty days if the electoral jursidiction has less than 5,000 registered voters but at least 1,000

(c) Ninety days if the electoral jurisdiction has less than 10,000 registered voters but at least 5,000.

(d) One hundred twenty days if the electoral jurisdiction has less than 50,000 registered voters but at least 10,000.

(e) One hundred sixty days if the electoral jurisdiction has 50,000 registered voters or more

The number of registered voters shall be calculated as of the time of the last report of registration by the county clerk to the Secretary of State.

SEC 15. Section 27211 of the Elections Code is amended to read:

27211. The number of qualified signatures required in order to qualify a recall for the ballot shall be as follows:

(a) In the case of an officer of a city, county, school district, community college district, county board of education, or resident voting district, the number of signatures shall be equal in number to not less than the following percent of the registered voters in the electoral jurisdiction

(1) Thirty percent if the registration is less than 1,000.

(2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.

(3) Twenty percent if the registration is less than 50,000 but at least 10,000.

(4) Fifteen percent if the registration is less than 100,000 but at least 50,000.

(5) Ten percent if the registration is 100,000 or above.

The number of registered voters shall be calculated as of the time of the last report of registration by the county clerk to the Secretary of State.

(b) In the case of a state officer, including justices of trial courts, the number of signatures shall be as provided for in Section 14(b) of Article II of the Constitution. In the case of a judge of a superior, municipal, or justice court, which office has never appeared on the ballot since its creation, the number of signatures shall be as provided in Section 14(b) of Article II of the Constitution except that the percent shall be based on the number of votes cast for the countywide office which had the least number of votes in the most recent general election in the county in which the judge holds his office.

(c) In the case of a landowner voting district, signatures of voters owning at least 10 percent of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled.

SEC. 16. Section 27211.5 is added to the Elections Code, to read:

27211.5. Upon physical submission of the petition for filing, the

clerk shall count the number of signatures appearing on it, disregarding any signature which does not bear in close proximity thereto the address given for such person. If from this examination the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures, the clerk shall accept the petition for filing and it shall be deemed filed as of the date of the clerk's determination Any petition not so filed shall be returned to the proponents

SEC. 17. Section 27230.5 is added to the Elections Code, to read:

27230.5. If the governing board fails to issue the order within the time specified in Section 27230, the county clerk, within five days, shall set the date for holding the election. If the recall is to be voted on by voters in more than one county, the county clerk of the county with the largest number of registered voters who will be voting in the election shall set the date for holding the election in consultation with the county clerks of the other counties.

SEC. 18 Section 27304 of the Elections Code is amended to read:

27304. Any voter who has signed a recall petition shall have his signature withdrawn from the petition upon filing a written request therefor with the clerk prior to the day the petition is filed. In the case of the recall of a state officer, such request shall be forwarded to the Secretary of State immediately.

SEC. 19. Section 27314 of the Elections Code is repealed.

SEC. 20 Section 27322 of the Elections Code is repealed

SEC. 21 Section 27333 of the Elections Code is amended to read:

27333. If the recall prevails and a majority of those voting on the question of filling the vacancy favor a special election for that purpose, the legislative body shall at its next regular meeting call an election to be held to fill the vacancy not less than 74 nor more than 89 days after the date of the order If a regular municipal election is to occur not more than 104 nor less than 74 days from the date of canvassing the vote the legislative body may provide for filling the vacancy at such regular municipal election instead of at a special election. If a special election is not favored by a majority of the voters, the legislative body shall at once fill the vacancy by appointment. In either case the person elected or appointed shall hold office for the unexpired term of the former incumbent

The recalled officer may not be a candidate to succeed himself at a special election held to fill the vacancy created by his recall, nor may he be appointed by the legislative body to fill the vacancy.

SEC. 22. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there by any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 1138

An act to amend Sections 11094, 53601, and 53635 of the Government Code, relating to local agencies.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1 Section 11094 of the Government Code is amended to read·

11094 The State Controller shall, in the preparation and maintenance of any statistical analyses which concern local governmental entities, either by population, fiscal, or other bases, make a separate breakdown for any area designated as a statistical area pursuant to Section 11093. With respect to reports of the State Controller on local revenue sources other than property tax or sales tax, the Controller in making such a breakdown may waive reporting requirements for any revenue source which is collected in minimal amounts or which is distributed evenly in the entire city and may allocate such revenue on the basis of the Finance Department population estimates for the statistical area or areas.

This section shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

SEC. 1 5. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in·

(a) Bonds issued by it including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by it or by a department, board, agency or authority thereof.

(b) United States Treasury notes, bonds, bills or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency or authority thereof.

(d) Bonds, notes, warrants or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency, or by a department, board, agency or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land

banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 day's maturity, nor exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

The provisions of subdivision (f) of this section shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by it or by a department, board, agency or authority thereof.

(b) United States Treasury notes, bonds, bills or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board agency or authority thereof.

(d) Bonds, notes, warrants or other evidences of indebtedness of any local agency within this state including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency, or by a department, board, agency or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in obligations, participations, or other instruments of or issued by a federal agency or a United States

government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus funds which may be invested pursuant to this section

The provisions of subdivision (f) of this section shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

CHAPTER 1139

An act to amend Section 14780 of the Government Code, and to add Section 99317 to the Public Utilities Code, relating to transportation

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1 Section 14780 of the Government Code is amended to read.

14780. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or of textbooks for use in the day and evening elementary schools of the state, (b) services, whether or not the same involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by such state agency for or in cooperation with any person, or public body, are of no effect unless and until approved by the Department of General Services. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of such approval This section shall apply to any state agency which by general or specific statute is expressly or impliedly authorized to enter into transactions referred to herein. This section shall not apply to any contract let by a department under the State Contract Act or the State College Contract Law, nor to any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under the Streets and Highways Code, nor any contract entered into by the Department of Transportation which is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local

tax sources, nor to any contract let by the Legislature, nor to any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 2. Section 99317 is added to the Public Utilities Code, to read:

99317. Any facility or equipment purchased by any entity, with funds made available to it pursuant to Section 4, 5, 6, 8, or 9 of Chapter 1130 of the Statutes of 1975, shall be the property of that entity if it maintains the same level of use of the facility or equipment for a period of three years, after termination of the project under which the funds were allocated to it, as was maintained during the period of the project.

CHAPTER 1140

An act to add Part 6 (commencing with Section 35800) to Division 24 of the Health and Safety Code, relating to discrimination in the financing of housing.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Part 6 (commencing with Section 35800) is added to Division 24 of the Health and Safety Code, to read:

PART 6. FINANCIAL DISCRIMINATION

CHAPTER 1. FINDINGS AND DECLARATIONS OF PURPOSE AND POLICY

35800. This part shall be known and may be cited as the The Housing Financial Discrimination Act of 1977.

35801. The Legislature finds and declares:

(a) The subject of housing is of vital statewide importance to the health, safety, and welfare of the residents of the state.

(b) A healthy housing market, where residents of this state have a choice of housing opportunities and where the housing consumer may effectually choose within a free market place, is necessary to achieve a healthy state economy.

(c) The equities that California residents accumulate in family homes must be protected and conserved.

(d) The Legislature has the responsibility to direct the discontinuance of injurious practices.

(e) With respect to certain geographic areas, financial institutions have sometimes denied financial assistance or approved assistance on

terms less favorable than are usually offered in other geographic areas, regardless of the creditworthiness of the applicant or the condition of the real-property security offered, and this practice has the following effects:

(1) Contributes to the decline of available family housing in such areas and is likely to continue to do so.

(2) Limits the choice of housing opportunities and inhibits the operation of a healthy housing market in such areas.

(3) Leads to the abandonment of such areas.

(4) Adversely affects the health, welfare, and safety of the residents of this state.

(5) Undermines the value of the equity of current owners of property in such areas.

(6) Inhibits the granting of amortized loans.

(7) Perpetuates racially and economically segregated neighborhoods and geographic areas.

(f) The practice of denying mortgage loans or adversely varying the terms of such loans because of conditions, characteristics, or trends in a neighborhood or geographic area that are unrelated to the creditworthiness of the applicant or the value of the real property security offered is against public policy.

35802. The purposes of this part include the following:

(a) To prevent discrimination in the provision of financial assistance for financing or refinancing the purchase, construction, rehabilitation, or improvement of housing accommodations because of conditions, characteristics, or trends in the neighborhood or geographic area surrounding the security property.

(b) To encourage increased lending in neighborhoods or geographic areas in which conventional residential mortgage financing has been unavailable.

(c) To increase the availability of housing accommodations to creditworthy persons

(d) To ensure the supply of decent, safe housing.

(e) To prevent the abandonment and decay of neighborhoods and geographic areas

35803. This part shall be deemed an exercise of the police power of the state for the protection of the health, welfare, and peace of the people of this state.

CHAPTER 2. DEFINITIONS

35805. As used in this part·

(a) "Agency" means the Business and Transportation Agency.

(b) "Fair market value" means the highest price which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, acting prudently and knowledgeably.

(c) "Financial institution" includes any bank, savings and loan association, or other institution in this state, including a public

agency, that regularly makes, arranges, or purchases loans for the purchase, construction, rehabilitation, improvement, or refinancing of housing accommodations.

(d) "Housing accommodation" includes any improved or unimproved real property, or portion thereof, that (1) is used or is intended to be used as a residence and (2) is or will be occupied by the owner, and (3) contains not more than four dwelling units. "Housing accommodation" shall also include any residential dwelling containing not more than four dwelling units where the owner thereof, whether or not the owner will occupy the property, applies or has applied for a secured home improvement loan from a financial institution, the proceeds of which loan will be used to improve the security property

(e) "Secretary" means the Secretary of the Business and Transportation Agency

CHAPTER 3 PROHIBITIONS AND ENFORCEMENT

35810. No financial institution shall discriminate in the availability of, or in the provision of, financial assistance for the purpose of purchasing, constructing, rehabilitating, improving, or refinancing housing accommodations due, in whole or in part, to the consideration of conditions, characteristics, or trends in the neighborhood or geographic area surrounding the housing accommodation, unless the financial institution can demonstrate that such consideration in the particular case is required to avoid an unsafe and unsound business practice

35811. No financial institution shall discriminate in the availability of, or in the provision of, financial assistance for the purpose of purchasing, constructing, rehabilitating, improving or refinancing housing accommodations due, in whole or in part, to the consideration of race, color, religion, sex, marital status, national origin, or ancestry

35812. No financial institution shall consider the racial, ethnic, religious, or national origin composition of a neighborhood or geographic area surrounding a housing accommodation or whether or not such composition is undergoing change, or is expected to undergo change, in appraising a housing accommodation or in determining whether or not, and under what terms and conditions, to provide financial assistance for the purpose of purchasing, constructing, rehabilitating, improving, or refinancing a housing accommodation No financial institution shall utilize appraisal practices that are inconsistent with the provisions of this part

35813 Nothing in this part shall (1) require a financial institution to provide financial assistance if it is clearly evident that occupancy of the housing accommodation would create an imminent threat to the health or safety of the occupant or (2) be construed to preclude a financial institution from considering the fair market value of the property which will secure the proposed loan.

35814. The secretary shall issue such rules, regulations, guidelines, and orders as are necessary to interpret and enforce the provisions of this part and to affirmatively further the provisions of this part. The secretary may delegate the responsibilities imposed by this section to one or more departments within the agency that license persons or organizations engaged in a business related to, or affecting compliance with, this part

35815. The secretary or the secretary's designee shall monitor and investigate the lending patterns and practices of financial institutions for compliance with this part, including the lending patterns and practices for housing accommodations which are not occupied by the owner. If a finding is made that such patterns or practices violate the provisions of this part the secretary or the secretary's designee shall take such action as will effectuate the purposes of this part. In addition to other remedies provided by this part or other provisions of law, the secretary may recommend to the State Treasurer that state funds not be deposited in a financial institution where the secretary has made a finding that such financial institution has engaged in a lending pattern and practice which violates the provisions of this part

CHAPTER 4 COMPLAINT RESOLUTION

35820. Any applicant for a real estate loan in connection with a housing accommodation claimed to be aggrieved by an alleged violation of Chapter 3 (commencing with Section 35810) of this part, or any rule or regulation adopted thereunder, may file a complaint with the secretary.

35821. Immediately upon receipt of the complaint, the secretary shall endeavor to eliminate any alleged unlawful practice by conference, conciliation, or persuasion.

35822. If, in accordance with procedures established for the resolution of complaints by the secretary, and within 30 days of receiving the complaint, the secretary finds that a financial institution has engaged in any unlawful practice as defined in this part, the secretary shall state in a written decision his or her findings of fact and shall cause such financial institution to be served with a copy of the decision and an order issued by the secretary requiring it to cease and desist from such practice and to take one of the following steps as, in the judgment of the secretary, will effectuate the purposes of this part:

(a) The making of the financial assistance or the making of the financial assistance on nondiscriminatory terms; or

(b) The payment of damages to the complainant in an amount not to exceed one thousand dollars ($1,000), if the secretary finds that effective relief under subdivision (a) is no longer available.

The secretary may require a report of the manner of compliance.

If the secretary finds that a financial institution has not engaged in any practice which constitutes a violation of this part, the secretary

shall issue a written decision incorporating his findings of fact and shall cause to be served upon the complainant and the financial institution involved a copy of the decision.

35823. The decision of the secretary shall be final unless, within ten days from the date of receipt thereof, the complainant or financial institution files a written request with the secretary for a formal administrative hearing. Upon receipt of such a written request, the secretary shall file a copy thereof with the Office of Administrative Hearings. Within 20 days of receipt of the copy of such request, the Office of Administrative Hearings shall commence a hearing on the merits pursuant to the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, except that the decision of the hearing officer shall be a final decision and binding upon the secretary. The decision shall be in accordance with the provisions of Section 35822 and shall be rendered within 45 days of receipt of the copy of the request for a hearing by the Office of Administrative Hearings. The secretary shall represent the complainant at such hearing if the secretary's decision rendered pursuant to Section 35822 was in favor of the complainant.

Judicial review may be obtained by the complainant or the financial institution by filing a petition for writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure. In any such judicial proceeding, the court may exercise its independent judgment on the evidence included in the record of the administrative hearing and may additionally consider evidence which was improperly excluded by the hearing officer and any other relevant evidence not included in the record of the administrative hearing which the court finds the offering party could not, in the exercise of reasonable diligence, have produced at the administrative hearing. The court may in its discretion award costs or reasonable attorney fees, or both, to the complainant if the complainant is the prevailing party, without regard to whether such judicial action is brought by the complainant or by the financial institution.

CHAPTER 5. MISCELLANEOUS

35830. In order to further the purposes of this part, financial institutions shall notify all applicants at the time of written application for financial assistance of the prohibitions enumerated in Chapter 3 (commencing with Section 35810) and of the right of review provided by Section 35820. Such notice shall include the address of the secretary, or the secretary's designee, and where complaints may be filed and questions may be asked. Such notice shall be in at least 10-point type and shall also be posted in a conspicuous place for public inspection.

35831. The provisions of this part, including rules, regulations, guidelines, and orders issued pursuant to this part, shall not affect the

validity of any prohibitions or requirements pertaining to the activity of financial institutions that arise from other provisions of law relating to discrimination in lending. Rules, regulations, guidelines, and orders issued pursuant to this part shall not be in any manner contrary to, or inconsistent with, the purposes of this part.

35832 The provisions of this part shall be liberally construed in order to effectuate the purposes of this part.

35833. If any clause, sentence, paragraph, or part of this part or application thereof to any person, financial institution, or circumstance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this part and the application thereof to other persons, financial institutions or circumstances but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, financial institution, or circumstance involved.

CHAPTER 1141

An act to amend Section 38261 of, and to add Section 38261 2 to, the Health and Safety Code, relating to developmental disabilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

I am reducing the appropriation contained in Section 3 of Assembly Bill No 865 from $15,000,000 to $5,000,000

This will provide sufficient funds until all client assessments are completed and final cost estimates are determined

With this reduction, I approve Assembly Bill No 865

EDMUND G BROWN JR , Governor

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

SECTION 1 Section 38261 of the Health and Safety Code is amended to read.

38261. By July 1, 1977, and each year thereafter, the State Department of Health shall establish rates, which shall be reviewed by the state council. Such rates shall annually be proposed to the Legislature by March 1 and shall be operative on July 1 of each year, subject to the appropriation of sufficient funds for such purpose in the Budget Act. In establishing rates to be paid for out-of-home care, the State Department of Health shall include each of the cost elements in this section as follows:

(a) Rates established for all facilities shall include an adequate

amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, between the age of 12–17, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Health, using the best available estimating methods.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision" shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons The individual program plan developed pursuant to Section 38215 shall determine the amount of "direct supervision" required for each individual. The cost of "direct supervision" is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities These rates shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of the Fair Labor Standards Act.

(c) Rates established for all facilities that provide "special services" for persons with developmental disabilities shall include an amount to pay for such "special services" for each person receiving special services. "Special services" include medical and dental care and therapeutic, educational, training, or other services required in the individual program plan of each person. Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support If a facility serves other persons in addition to developmentally

disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

(g) Rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

SEC. 2. Section 38261.2 is added to the Health and Safety Code, to read:

38261.2. The Legislative Analyst shall conduct a study of the feasibility of establishing an independent rate-setting commission responsible for the establishment of rates and fees for community care facilities as defined in Section 1502, and health facilities, as defined in Section 1250, for developmentally disabled persons and report thereon to the Legislature no later than March 1, 1978. The study shall evaluate the feasibility of adopting a system similar to the rate-setting system for public utilities in California.

SEC. 3. The sum of fifteen million dollars ($15,000,000) is hereby appropriated from the General Fund to the State Department of Health for expenditure during the 1977–78 fiscal year for the purpose of paying rates for out-of-home care pursuant to the Lanterman Developmental Disabilities Services Act (Division 25 (commencing with Section 38000), of the Health and Safety Code) in augmentation of Item 253 of the Budget Act of 1977 (Chapter 219, Statutes of 1977). It is the intent of the Legislature in making this appropriation to replace moneys not included in Item 253 of the Budget Act of 1977 because of the underestimation by the State Department of Health of the number of developmentally disabled clients of regional centers in out-of-home placement who would require more than basic care and supervision

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

In order for the rates to be established for financing community living facilities for the developmentally disabled and be effective at the start of the 1977–78 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1142

An act to amend Sections 984 and 1085 of, and to add Sections 927.5, 986.5, 987.5, 987.7, and 1088.5 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 927.5 is added to the Unemployment Insurance Code, to read:

927.5 (a) Notwithstanding Section 927, for the purposes of Part 2 (commencing with Section 2601) of this division only, "wages" shall also mean the amount of cash tips and cash gratuities received by a worker from persons other than his employer in the course of employment by an employer during any calendar month if the amount of the cash tips and cash gratuities is equal to or greater than twenty dollars ($20).

(b) Each worker shall report to his employer in writing the amount of wages included in subdivision (a) on or before the 10th day of the calendar month following the calendar month in which they were received. The worker's statement required by Section 6053 of the Internal Revenue Code of 1954 may be used to satisfy the requirements of this subdivision.

SEC. 2. Section 984 of the Unemployment Insurance Code is amended to read:

984. Each worker shall pay worker contributions, at the rate of 1 percent with respect to the wages the worker is required to report pursuant to Section 927.5 and the wages paid to him by each employer for employment after his employer has satisfied the conditions set forth in this part with respect to becoming an employer. Contributions required under Sections 708 and 708.5 shall be at the rate of 1.25 percent of the remuneration deemed to have been received under said sections.

SEC. 3. Section 986.5 is added to the Unemployment Insurance Code, to read:

986.5 The withholding of worker contributions with respect to wages included in Section 927.5 shall be as follows:

(a) Each employer furnished a report pursuant to Section 927.5 shall withhold in trust the amount of worker contributions with respect to the wages so reported from any wages of the worker, exclusive of wages included in Section 927.5, under the employer's control, even though at the time the report is furnished the total amount of cash tips and cash gratuities reported as having been received during a calendar month is less than twenty dollars ($20).

(b) Pursuant to authorized regulations, each employer may:

(1) Estimate the amount of wages that will be reported pursuant

to Section 927.5 during a calendar quarter, and withhold in trust worker contributions from the wages of the worker, exclusive of wages included in Section 927.5, under the employer's control as if the cash tips and cash gratuities so estimated constituted the actual cash tips and cash gratuities reported.

(2) Withhold in trust the amount of worker contributions necessary to adjust the amount required to be withheld in trust during a calendar quarter from wages, exclusive of cash tips and cash gratuities, but including funds turned over to the employer under subdivision (b) of Section 987 5, paid to the worker during a calendar quarter or within 30 days thereafter.

SEC 4. Section 987 5 is added to the Unemployment Insurance Code, to read:

987.5. (a) Each employer shall be liable for contributions required to be made by his workers on account of the receipt of cash tips and cash gratuities which are reported as wages pursuant to Section 927.5. Collection shall be made by the employer, at or after the time the report is made and before the close of the 10th day following the end of the calendar month in which the cash tips and cash gratuities are deemed paid, by deducting the amount of worker contributions from wages of the worker, exclusive of cash tips and cash gratuities, but including funds turned over to the employer pursuant to subdivision (a) of Section 987 7, that are under the control of the employer.

(b) Where amounts are estimated pursuant to subdivision (b) of Section 986 5, collection shall be made by the employer, at or after the time the report is made and before the close of the last day of the month following the calendar quarter in which the cash tips and cash gratuities are deemed paid, by deducting the amount of worker contributions from wages of the worker, exclusive of cash tips and cash gratuities, but including funds turned over to the employer pursuant to subdivision (a) of Section 987 7, under the control of the employer.

SEC. 5 Section 987 7 is added to the Unemployment Insurance Code, to read:

987.7. (a) If the worker contributions required in any one month to be made because of the receipt of cash tips and cash gratuities exceed the wages of the worker, excluding wages included in Section 927 5, under the control of the employer, the worker may furnish the employer, on or before the 10th day of the following month, or, if the amounts are estimated, on or before the last day of the month following the calendar quarter, an amount equal to the excess.

(b) If the worker contributions required by Section 984 with respect to cash tips and cash gratuities exceed the amount of worker contributions which can be collected by the employer from the wages of the worker, the excess shall be paid by the worker, except as provided by Section 1088.5. The worker shall pay the excess to the department within 30 days from his receipt of the written statement furnished by his employer pursuant to Section 1088.5. If the worker

fails to pay the excess within the time required by this subdivision, the director may make an assessment for the excess and shall give the worker a written notice of the assessment. The provisions of Article 8 (commencing with Section 1126) of this chapter with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of this part with respect to the collection of contributions shall apply to the recovery of amounts under this subdivision.

(c) The director may offset amounts assessed pursuant to subdivision (b) of this section against any refund payable to the worker under Section 1176.5 or against any amount of disability benefits to which he may become entitled under Part 2 (commencing with Section 2601) of this division within any of the following periods:

(1) The current disability benefit period.

(2) One year from the beginning date of any disability benefit period which begins during the three-year period next succeeding the service of notice of the assessment

SEC. 6. Section 1085 of the Unemployment Insurance Code is amended to read:

1085. Every employing unit shall keep a true and accurate work record of:

(a) All his workers and their status, i.e., employed, on layoff or leave of absence.

(b) The wages paid by him to each worker.

(c) The wages reported to him pursuant to Section 927.5 and estimated by him pursuant to subdivision (b) of Section 986.5.

(d) The amount paid to him by each worker pursuant to subdivision (a) of Section 987.7.

(e) Such other information as the director deems necessary to proper administration of this division.

SEC. 7. Section 1088.5 is added to the Unemployment Insurance Code, to read:

1088.5. Each employer, pursuant to authorized regulations, shall furnish a written statement to the worker showing the excess of the worker contributions required with respect to wages included in Section 927.5 over the worker contributions withheld pursuant to Section 986.5, and shall file a copy of this statement with the director. If the employer fails to furnish the statement as required by this section and authorized regulations, he shall be liable for the excess of the worker contributions.

SEC. 8. The provisions of this act shall be operative with respect to cash tips and cash gratuities received by a worker on and after January 1, 1978.

CHAPTER 1143

An act to amend Sections 984, 2611, 2627, 2655, 2707.3, 3254, 3254.5, 3255, and 3265 of, to add Section 2627 5 to, to repeal Sections 2604.5, 2710, and 2711 of, and to repeal Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of, the Unemployment Insurance Code, relating to unemployment insurance

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

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

SECTION 1. Section 984 of the Unemployment Insurance Code is amended to read.

984. (a) Each worker shall pay worker contributions, at the rate of 1 percent with respect to the wages paid to him or her by each employer for employment after his or her employer has satisfied the conditions set forth in this part with respect to becoming an employer.

(b) Worker contributions required under Sections 708 and 708.5 for calendar year 1978 shall be at the rate of 1.72 percent of the remuneration deemed to have been received under said sections.

(c) Worker contributions required under Sections 708 and 708.5 for calendar year 1979 and after shall be at a rate determined by the director to reimburse the Disability Fund for unemployment compensation disability benefits paid and estimated to be paid to all employers and self-employed individuals covered by those sections. On or before November 30, 1978, and on or before November 30th of each subsequent calendar year, the director shall file with the Secretary of State a statement declaring the rate of contributions for the succeeding calendar year for all employers and self-employed individuals covered under Sections 708 and 708.5 and shall notify such employers and self-employed individuals of the rate. The rate shall be determined by dividing the estimated benefits paid in the prior year by the product of the annual remuneration deemed to have been received under Sections 708 and 708.5 and the estimated number of persons who were covered at any time in the prior year. The resulting rate shall be rounded to the next higher one-hundredth percentage point. The rate may also be reduced or increased by a factor estimated to maintain as nearly as practicable a cumulative zero balance in the funds contributed pursuant to Sections 708 and 708 5 Estimates made pursuant to this section may be made on the basis of statistical sampling, or other method determined by the director. The director's action in determining a rate under this section shall not constitute an authorized regulation.

SEC. 2. Section 2604.5 of the Unemployment Insurance Code is repealed

SEC 3 Section 2611 of the Unemployment Insurance Code is

amended to read:

2611 "Disability base period" with respect to an individual who has an unexpired benefit year for unemployment compensation benefits, shall be:

(a) The same as the disability base period in Section 2610 if the individual has sufficient qualifying earnings in that disability base period.

(b) The same as the base period used to establish the benefit year for unemployment compensation benefits if the individual does not have sufficient qualifying earnings in the disability base period in Section 2610.

SEC. 4. Section 2627 of the Unemployment Insurance Code is amended to read:

2627. A disabled individual is eligible to receive disability benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unemployed due to a disability only if the director finds that:

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) Except as provided in Section 2627.5, he or she has been unemployed and disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no benefits are payable.

(c) Except as provided in Section 2709 he or she has submitted to such reasonable examinations as the director may require for the purpose of determining his or her mental or physical disability.

(d) He or she has filed a certificate as required by the provisions of Section 2708 or 2709.

SEC. 5. Section 2627.5 is added to the Unemployment Insurance Code, to read:

2627.5. (a) If an individual, pursuant to orders of his or her physician, is confined in a hospital for at least one day, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived. This subdivision shall apply to an individual's confinement in a nursing home as defined by subdivision (c) (4) (B), but only if immediately prior to such confinement he or she was confined in a hospital (other than a nursing home) for not less than 15 consecutive days pursuant to the orders of his or her physician or confined to such nursing home by order of a physician, where such nursing home is used where an individual's disability requires immediate hospitalization and a bed is unavailable in a hospital (other than a nursing home).

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by a certificate stating the day an individual's confinement in a hospital commenced, and stating that the confinement was 24 hours or more in duration or that a full day's rate was charged, and signed by the registrar or other appropriate official of the hospital.

(c) As used in this section:

(1) "Confined" means a registered bed patient.

(2) "Day" means any 24-hour period of time during which the claimant is in a hospital, or any 24-hour period or any part thereof for which a hospital charges a patient a full day's rate

(3) "Full day's rate" means the regular and customary daily charge for board and room by the hospital.

(4) "Hospital" means.

(A) Within the State of California any institution which is:

(i) Licensed by the State Department of Health as a general hospital, maternity hospital, tuberculosis hospital or sanitorium or specialized hospital; or

(ii) Operated as a hospital but exempt from licensing by the State Department of Health under subdivision (a) of Section 1270 of the Health and Safety Code; or

(iii) Operated as a mental hospital licensed by the State Department of Health which is primarily intended for, staffed and equipped to provide for the reception, care, diagnosis and treatment of acute mental and nervous diseases.

(B) Within the states of the United States any institution operated as a "nursing home" which is:

(i) An extended care facility as defined in subsection (j) of Section 1395x of Title 42 of the United States Code; or

(ii) Conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(C) Outside the State of California any institution in other states or foreign countries, or in the territories or possessions of any country which is·

(i) Licensed as a hospital pursuant to the statutes or laws of that state or foreign country, or a territory or possession of a country; or,

(ii) Operated pursuant to law with organized facilities for diagnosis and surgery, and 24-hour nursing service for the care and treatment of sick and injured persons, if the state or foreign country, or the territory or possession of the country does not have statutes or laws concerning the requirements for licensing hospitals.

(D) Any institution which is operated as a hospital by the United States government or a duly authorized agency thereof

(5) "Orders of his or her physician" means court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a practitioner duly authorized by any bona fide church, sect, denomination or organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209 3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this

state or in any foreign country, or in a territory or possession of any country

SEC. 6. Section 2655 of the Unemployment Insurance Code is amended to read:

2655. An individual's "weekly benefit amount" shall be the amount appearing in column B in the table set forth in this section on the line of which in column A of such table there appears the wage bracket containing the amount of wages paid to such individual for employment by employers during the quarter of his or her disability base period in which such wages were the highest.

A *Amount of wages in highest quarter*	*B* *Weekly benefit amount*
$75– $649.99	$30
650– 674.99	31
675– 699.99	32
700– 724.99	33
725– 749.99	34
750– 774.99	35
775– 799.99	36
800– 824.99	37
825– 849.99	38
850– 874.99	39
875– 899.99	40
900– 924.99	41
925– 949.99	42
950– 974.99	43
975– 999.99	44
1,000–1,024.99	45
1,025–1,049.99	46
1,050–1,074.99	47
1,075–1,099.99	48
1,100–1,124.99	49
1,125–1,149.99	50
1,150–1,174.99	51
1,175–1,199.99	52
1,200–1,224.99	53
1,225–1,249.99	54
1,250–1,274.99	55
1,275–1,299.99	56
1,300–1,324.99	57
1,325–1,349.99	58
1,350–1,374.99	59
1,375–1,399.99	60
1,400–1,424.99	61
1,425–1,449.99	62
1,450–1,474.99	63

2,700–2,724.99	113
2,725–2,749 99	114
2,750–2,774.99	115
2,775–2,799.99	116
2,800–2,824.99	117
2,825–2,849.99	118
2,850–2,874.99	119
2,875–2,899.99	120
2,900–2,924.99	121
2,925–2,949.99	122
2,950–2,974 99	123
2,975–2,999.99	124
3,000–3,024.99	125
3,025–3,049.99	126
3,050–3,074.99	127
3,075–3,099.99	128
3,100–3,124.99	129
3,125–3,149.99	130
3,150–3,174.99	131
3,175–3,199.99	132
3,200–3,224.99	133
3,225–3,249.99	134
3,250–3,274.99	135
3,275–3,299 99	136
3,300–3,324.99	137
3,325–3,349.99	138
3,350–3,374.99	139
3,375–3,399 99	140
3,400–3,424 99	141
3,425–3,449.99	142
3,450–3,474.99	143
3,475–3,499.99	144
3,500–3,524.99	145
3,525 and over	146

SEC 7. Section 2707 3 of the Unemployment Insurance Code is amended to read

2707.3. (a) Except as provided in subdivision (b) of this section, upon the filing of a claim for unemployment compensation disability benefits, the Employment Development Department shall promptly make a computation on the claim which shall set forth the maximum amount of benefits potentially payable during the disability benefit period and the weekly benefit amount. The Employment Development Department shall promptly notify the claimant of the computation.

(b) No computation shall be made on a claim of an employee for disability benefits under an approved self-insured plan if the uninterrupted period of disability for such claim does not exceed the waiting period prescribed for benefits from the Disability Fund under sub-

division (b) of Section 2627

SEC 8. Section 2710 of the Unemployment Insurance Code is repealed

SEC. 9. Section 2711 of the Unemployment Insurance Code is repealed.

SEC. 10. Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of the Unemployment Insurance Code is repealed

SEC. 11. Section 3254 of the Unemployment Insurance Code is amended to read:

3254. The Director of Employment Development shall approve any voluntary plan, except one filed pursuant to Section 3255, as to which he or she finds that there is at least one employee in employment and all of the following exist:

(a) The rights afforded to the covered employees are greater than those provided for in Chapter 2 (commencing with Section 2625) of this part.

(b) The plan has been made available to all of the employees of the employer employed in this state or to all employees at any one distinct, separate establishment maintained by the employer in this state. "Employees" as used in this subdivision includes such individuals in partial or other forms of short-time employment and employees not in employment as the Director of Employment Development shall prescribe by authorized regulations.

(c) A majority of the employees of the employer employed in this state or a majority of the employees employed at any one distinct, separate establishment maintained by the employer in this state have consented to the plan.

(d) If the plan provides for insurance the form of the insurance policies to be issued have been approved by the Insurance Commissioner and are to be issued by an admitted disability insurer.

(e) The employer has consented to the plan and has agreed to make the payroll deductions required, if any, and transmit the proceeds to the plan insurer, if any.

(f) The plan provides for the inclusion of future employees.

(g) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the Director of Employment Development finds that the employer or a majority of its employees employed in this state covered by the plan have given notice of the termination of the plan The notice shall be filed in writing with the Director of Employment Development and shall be effective only on the anniversary of the effective date of the plan next following the filing of the notice, but in any event not less than 30 days from the time of the filing of the notice; except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law. If the plan is not terminated on such 30 days notice because of the enactment of a law increasing benefits, the plan shall be amended to conform

to such increase on the operative date of the increase

(h) The amount of deductions from the wages of an employee in effect for any plan shall not be increased on other than an anniversary of the effective date of the plan except to the extent that any increase in the deductions from the wages of an employee allowed by Section 3260 permits such amount to exceed the amount of deductions in effect

(i) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund.

SEC. 12 Section 3254.5 of the Unemployment Insurance Code is amended to read:

3254.5. A voluntary plan in force and effect at the time a successor employing unit acquires the organization, trade, or business, or substantially all the assets thereof, or a distinct and severable portion of such organization, trade, or business, and continues its operation without substantial reduction of personnel resulting from such acquisition, shall not terminate without specific request for cancellation thereof. The successor employing unit and the insurer shall be deemed to have consented to the provisions of the plan unless written request for cancellation, effective as of the date of acquisition, is transmitted to the Director of Employment Development, by the employer or the insurer, within 30 days after the acquisition date, or within 30 days after notification from the Director of Employment Development that the plan is to continue, whichever is later Unless the plan is terminated as of the date of acquisition by the successor employer or the insurer, a written request for cancellation shall be effective only on the anniversary of the effective date of the plan next occurring on or after the date of acquisition, except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law. If the plan is not terminated on such 30 days notice because of the enactment of a law increasing benefits, the plan shall be amended to conform to such increase on the operative date of the increase. Promptly upon notice of change in ownership any insurer of such a plan shall prepare and issue policy forms and amendments as required, unless the plan is canceled. Nothing herein contained shall prevent future cancellation of any such plans on an anniversary of the effective date of the plan upon 30 days notice, except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law. If the plan is not terminated on such 30 days notice because of the enactment of a law increasing benefits, the plan shall be amended to conform to such increase on the operative date of the increase.

SEC. 13. Section 3255 of the Unemployment Insurance Code is

amended to read:

3255. When workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and several employers or some of them cooperate to establish a plan for the payment of wages at a central place or places, and have appointed an agent under Section 1096, such agent, or a majority of workers regularly paid through such central place or places, or both, may apply to the Director of Employment Development for approval of a voluntary plan for the payment of disability benefits applicable to all employees whose wages are paid at one or more such central place or places. The Director of Employment Development shall approve any voluntary plan under this section as to which he or she finds that all of the following exist:

(a) The rights afforded to the covered employees are greater than those provided for in Chapter 2 (commencing with Section 2625) of this part, and are separately stated and designated "unemployment compensation disability benefits" separate and distinct from other benefits, if any.

(b) The plan applies to all employees whose wages are paid at such central place or places with respect to all employment for which wages are paid at such central place or places.

(c) Seventy-five percent of the workers regularly paid at the central place or places have consented to the plan prior to the filing of the initial application for approval.

(d) If the plan provides for insurance the form of the insurance policies to be issued have been approved by the Insurance Commissioner and are to be issued by an admitted disability insurer.

(e) All employers paying wages through the central place or places have agreed to participate in the plan and the agent appointed under Section 1096 has agreed to make the payroll deductions required, if any, and transmit the proceeds to the plan insurer, if any

(f) The plan provides for the inclusion of all future employees paid at the central place or places.

(g) The plan is to be in effect for a period of not less than one year and, thereafter, continuously unless the Director of Employment Development finds that the agent or a majority of the employees regularly paid at the central place or places has given written notice of termination of the plan. Such notice shall be filed in writing with the Director of Employment Development at least 30 days before it is to become effective and, upon the filing, shall be effective only as to wages paid after the beginning of the calendar quarter next occurring on or after the anniversary of the effective date of the plan; except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law. If the plan is not terminated on such 30 days notice because of the enactment of a law increasing benefits, the plan shall be amended to conform to such increase on the opera-

tive date of the increase.

(h) The amount of deductions from the wages of an employee in effect for any plan shall not be increased on other than an anniversary of the effective date of the plan except to the extent that any increase in the deductions from the wages of an employee allowed by Section 3260 permits such amount to exceed the amount of deductions in effect.

(i) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund.

SEC 14. Section 3265 of the Unemployment Insurance Code is amended to read:

3265. (a) If, on appeal, it is decided that an employee is entitled to receive disability benefits under an approved voluntary plan and the employer or insurer fails to pay the same within 15 days after notice of a decision by a referee or the appeals board, the Director of Employment Development shall pay such benefits and the Director of Benefit Payments shall assess the amount thereof against the employer or the insurer, and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

(b) If an approved voluntary plan is not terminated because of the enactment of any law increasing the benefit amounts provided by Sections 2653 and 2655, and the employer or insurer fails to pay such increase under the plan, the Director of Employment Development shall pay such benefits to an employee, if otherwise eligible, and the Director of Benefit Payments shall assess the amount thereof against the employer or the insurer and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

SEC. 15. This act shall become operative as follows:

(a) The amendment of Sections 984, 2611, and 2655 of, and the repeal of Section 2604.5 of, the Unemployment Insurance Code made by this act shall become operative with respect to periods of disability commencing on or after January 1, 1978. The provisions of law in effect prior to the amendment or repeal of such sections made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1978.

(b) The amendment of Sections 2627, 2707.3, 3254, 3254.5, 3255, and 3265 of, the addition of Section 2627.5 to, and the repeal of Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of, the Unemployment Insurance Code made by this act shall

become operative with respect to periods of disability commencing on or after January 1, 1979. The provisions of law in effect prior to the amendment, repeal, or addition of such provisions made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1979.

CHAPTER 1144

An act to add Section 25524.25 to the Public Resources Code, relating to nuclear powerplants, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977. Filed with Secretary of State September 28, 1977.]

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

SECTION 1. Section 25524.25 is added to the Public Resources Code, to read:

25524.25. (a) Notwithstanding any other provision of this division, the commission shall, no later than January 16, 1978, transmit, to each house of the Legislature, its determination as to whether all of the findings required by Sections 25524.1 and 25524.2 can be made at that time. In the event that the commission determines that any of such findings cannot then be made, it shall include in its determination a recommendation as to whether any facilities, or any unit thereof, for which a notice of intention has been filed with the commission before January 1, 1977, should be exempted from the requirements of Sections 25524.1 and 25524.2, and what conditions, if any, should be attached to such exemption.

In making the recommendation required by this subdivision the commission shall consider the following:

(1) The commission's most recent energy and demand forecast as updated to indicate the energy requirement, capacity and supply for the area proposed to be served by any such facilities as identified in the notice of intention at the time the commission's recommendation is made.

(2) The extent to which the need identified in subsection (1) can be reduced by nongenerational alternatives to the proposed facilities or by reasonable conservation measures, or both.

(3) Whether any practical alternative technology is or will be available to meet the need as determined pursuant to subsections (1) or (2). For purposes of this subsection "practical alternative technology" means a facility which uses a form of primary energy for generation other than that proposed for use in the facilities which are the subject of such notice of intention, which alternative facility is or will be economically comparable, for which technology is or will be available, which is environmentally acceptable, and which, in

prudent judgment, could be certified and constructed in sufficient time to meet the need determined pursuant to subsections (1) and (2) or within the same time period as the facilities subject to this section, whichever is longer.

For purposes of making the findings required by subsections (1), (2), and (3) of this subdivision, the commission shall consider, among other things, the record of the proceedings on the notice of intention for such facilities and shall hold such hearings as it deems necessary.

(b) In the event that the commission recommends that the proposed facilities be exempted from Sections 25524.1 and 25524.2, the Legislature, within 90 days of receipt of such recommendation, shall act on it.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

It is uncertain whether the State Energy Resources Conservation and Development Commission can make the findings required by Sections 25524.1 and 25524.2 of the Public Resources Code, both of which must be satisfied before the commission may certify a nuclear fission thermal powerplant. Such inability to certify facilities for which the need has been recognized by the commission, and for which there is no practical alternative technology, could gravely impact the health, safety and welfare of the citizens of the state.

In order to allow the commission to perform its powerplant certification function and avoid injuriously delaying needed powerplants, risking statewide energy shortages, and thereby disrupting rational planning to meet state energy needs, it is necessary that this act take effect immediately.

CHAPTER 1145

An act to amend Sections 2 and 3 of Chapter 1066 of the Statutes of 1976, relating to the state park system, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1977 Filed with Secretary of State September 28, 1977]

I am deleting the appropriation contained in Section 6 of Assembly Bill No 1489

In the judgment of the Parks and Recreation Department, this property is not suitable for public acquisition

With this deletion, I approve Assembly Bill No 1489

EDMUND G BROWN JR , Governor

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

SECTION 1. The Department of Parks and Recreation shall conduct a feasibility study to determine appropriate means of providing public access to the Deer Springs Trail in the Mount San Jacinto State Wilderness The department shall report the findings of such study to the Legislature not later than March 1, 1978

SEC. 2. The sum of three thousand dollars ($3,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation for purposes of conducting a feasibility study as prescribed by Section 1 of this act.

SEC. 3. Section 2 of Chapter 1066 of the Statutes of 1976 is amended to read.

Sec. 2. Notwithstanding Section 5098.2 of the Public Resources Code, there is hereby appropriated, in accordance with the following schedule, the sum of five hundred sixty thousand dollars ($560,000) to the Department of Parks and Recreation for expenditure, during the period September 1, 1976, to December 31, 1979, inclusive, for a study to determine whether there is available a continuous source of water from wells that is sufficient to supply Lake Elsinore and whether such manner of supplying the lake would be feasible:

Schedule:

(a) Payable from the Harbors and Watercraft Revolving Fund $40,000

(b) Payable from the Park and Recreation Revolving Account in the General Fund $520,000

The study may include, but is not limited to, the installation of equipment necessary for monitoring underground water characteristics, the monitoring of underground water behavior, subsidence surveys, and the construction of a new water well

SEC. 4. Section 3 of Chapter 1066 of the Statutes of 1976 is amended to read:

Sec. 3. If at any time prior to December 31, 1979, the water level of Lake Elsinore recedes to an elevation of 1,227.5 feet above mean sea level, as determined by the Director of Parks and Recreation, an amount, not to exceed three hundred thousand dollars ($300,000) of the funds appropriated in Section 2 of this act, may be expended by the Department of Parks and Recreation for the purpose of purchasing or pumping water from any available source to raise the elevation of the lake.

SEC 5. The unencumbered balance of the funds appropriated in Section 1 of Chapter 1066 of the Statutes of 1976 is hereby reappropriated to the Department of Parks and Recreation and shall be available for expenditure until June 30, 1980.

SEC. 6. The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation for the acquisition of the Oakzanita property, consisting of 636 acres, more or less, as an addition to Cuyamaca Rancho State Park.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The costs of providing public access to the Deer Springs Trail in the Mount San Jacinto State Wilderness, a much needed recreational resource for the people of this state, will continuously increase as a result of continuing inflation. Section 1 of this act requires the Department of Parks and Recreation to conduct a feasibility study to determine appropriate means of public access to such trail and to report the findings of such study to the Legislature not later than March 1, 1978.

Further, the high evaporation rate of water in Lake Elsinore is such that the health and safety benefits of additional water supplies which may be secured are jeopardized. It is necessary to drill a new test well at the earliest possible time in order to carry out a study of a possible water supply for the lake; and, because the water level of the lake relates directly to the water quality and recreational benefits of the lake and the neighboring community, it is also necessary that the water level be maintained as high as is practicable during the study period.

Further, the Oakzanita property will be available for purchase by the state only for a short time.

Therefore, it is necessary that this act take effect immediately.

CHAPTER 1146

An act to add Title 11.5 (commencing with Section 422) to Part 1 of the Penal Code, relating to crimes.

[Approved by Governor September 29, 1977. Filed with Secretary of State September 29, 1977.]

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

SECTION 1. Title 11.5 (commencing with Section 422) is added to Part 1 of the Penal Code, to read:

TITLE 11.5. TERRORIST THREATS

422. Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with intent to terrorize another or with reckless disregard of the risk of terrorizing another, and who thereby either:

(a) Causes another person reasonably to be in sustained fear for his or hers or their immediate family's safety;

(b) Causes the evacuation of a building, place of assembly, or facility used in public transportation;

(c) Interferes with essential public services; or

(d) Otherwise causes serious disruption of public activities, is

guilty of a felony and shall be punished by imprisonment in the state prison

422.5 As used in this title, "terrorize" means to create a climate of fear and intimidation by means of threats or violent action causing sustained fear for personal safety in order to achieve social or political goals.

SEC. 2. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1147

An act to amend Section 466 of, to amend the heading of Chapter 3 (commencing with Section 466) of Title 13 of Part 1 of, and to add Sections 466.6 and 466.7 to, the Penal Code, relating to crimes.

[Approved by Governor September 29, 1977 Filed with Secretary of State September 29, 1977.]

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

SECTION 1. The heading of Chapter 3 (commencing with Section 466) of Title 13 of Part 1 of the Penal Code is amended to read:

CHAPTER 3. BURGLARIOUS AND LARCENOUS INSTRUMENTS AND DEADLY WEAPONS

SEC. 2. Section 466 of the Penal Code is amended to read:

466. Every person having upon him or in his possession a picklock, crow, keybit, or other instrument or tool with intent feloniously to break or enter into any building, railroad car, aircraft, or vessel, trailer coach, or vehicle as defined in the Vehicle Code, or who shall knowingly make or alter, or shall attempt to make or alter, any key or other instrument above named so that the same will fit or open the lock of a building, railroad car, aircraft, or vessel, trailer coach, or vehicle as defined in the Vehicle Code, without being requested so to do by some person having the right to open the same,

or who shall make, alter, or repair any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of misdemeanor. Any of the structures mentioned in Section 459 shall be deemed to be a building within the meaning of this section.

SEC. 3. Section 466.6 is added to the Penal Code, to read:

466.6. (a) Any person who makes a motor vehicle key for another by any method other than by the duplication of an existing key, whether or not for compensation, shall obtain the name, address, telephone number, if any, date of birth, and driver's license number or identification number of the person requesting or purchasing the key; the registration or identification number, license number, year, make, model, color, and vehicle identification number of the vehicle for which the key is to be made; and the key code number, if any Such information, together with the date the key was made and the signature of the person for whom the key was made, shall be set forth on a work order. A copy of each such work order shall be retained for three years and shall be open to inspection by any peace officer during business hours.

Any person who violates any provision of this subdivision is guilty of a misdemeanor

(b) The provisions of this section shall include, but are not limited to, the making of a key from key codes or impressions.

(c) Nothing contained in this section shall be construed to prohibit the duplication of any key for a motor vehicle from another such key.

SEC 4. Section 466 7 is added to the Penal Code, to read:

466.7. Every person who, with the intent to use it in the commission of an unlawful act, possesses a motor vehicle key with knowledge that such key was made without the consent of either the registered or legal owner of the motor vehicle or of a person who is in lawful possession of the motor vehicle, is guilty of a misdemeanor.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1148

An act to add Sections 1309.5 and 1309 6 to the Labor Code and to amend Section 311.4 of the Penal Code, relating to employment of minors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1977 Filed with Secretary of State September 29, 1977]

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

SECTION 1 Section 1309.5 is added to the Labor Code, to read:

1309.5. (a) Every person who, with knowledge that a person is a minor under 16 years of age, or who, while in possession of such facts that he should reasonably know that such person is a minor under 16 years of age, knowingly sells or distributes for resale films, photographs, slides, or magazines which depict a minor under 16 years of age engaged in sexual conduct as defined in Section 311.4 of the Penal Code, shall determine the names and addresses of persons from whom such material is obtained, and shall keep a record of such names and addresses. Such records shall be kept for a period of three years after such material is obtained, and shall be kept confidential except that they shall be available to law enforcement officers as described in Section 830 1 of the Penal Code upon request.

(b) Every retailer who knows or reasonably should know that such films, photographs, slides, or magazines depict a minor under the age of 16 years engaged in sexual conduct as defined in Section 311.4 of the Penal Code, shall keep a record of the names and addresses of persons from whom such material is acquired Such records shall be kept for a period of three years after such material is acquired, and shall be kept confidential except that they shall be available to law enforcement officers as described in Section 850.1 of the Penal Code upon request

(c) The failure to keep and maintain the records described in subdivisions (a) and (b) for a period of three years after the obtaining or acquisition of such material is a misdemeanor. Disclosure of such records by law enforcement officers, except in the performance of their duties, is a misdemeanor.

SEC. 2. Section 1309.6 is added to the Labor Code, to read:

1309.6. (a) Any person who violates any provision of Section 1309.5 shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

SEC. 3. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a

minor, or who, while in possession of such facts that he should reasonably know that such person is a minor, hires, employs, or uses such minor to do or assist in doing any of the acts described in Section 311.2, is guilty of a misdemeanor.

(b) Every person who, with knowledge that a person is a minor under the age of 16 years, or who, while in possession of such facts that he should reasonably know that such person is a minor under the age of 16 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 16 years, or any parent or guardian of a minor under the age of 16 years under his or her control who knowingly permits such minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 16 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years.

(c) As used in subdivision (b) "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, any lewd or lascivious sexual activity, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

SEC. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

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

Recent findings have indicated the use of children in pornographic materials is increasing at an alarming rate. Los Angeles County alone estimates that 30 000 cases of child and teenage molestation, including cases of child pornography, will occur in 1977. Due to the seriousness of this problem, the Legislature declares that laws prohibiting the use of children in pornography must take effect

immediately

CHAPTER 1149

An act to add and repeal Sections 135.8 and 633.4 to, and to add and repeal Chapter 5.8 (commencing with Section 1480) to Part 1 of Division 1 of, the Unemployment Insurance Code, relating to unemployment compensation, and making an appropriation therefor.

[Approved by Governor September 29, 1977 Filed with Secretary of State September 29, 1977]

The people of the State of California do enact as follows

SECTION 1. Section 135.8 is added to the Unemployment Insurance Code, to read:

135 8. "Employing unit" also means the State of California for the purposes of Chapter 5.8 (commencing with Section 1480) of this part.

SEC. 2. Section 633.4 is added to the Unemployment Insurance Code, to read.

633.4 Notwithstanding the provisions of Section 633, "employment" includes those services specified in Chapter 5.8 (commencing with Section 1480) of this part.

SEC. 3. Chapter 5 8 (commencing with Section 1480) is added to Part 1 of Division 1 of the Unemployment Insurance Code, to read:

CHAPTER 5.8. UNEMPLOYMENT COMPENSATION AND DISABILITY BENEFITS FOR FORMER INMATES OF STATE PRISONS OR INSTITUTIONS

1480. Notwithstanding Sections 2700 and 2791 of the Penal Code, or any other provision of law, inmates of any state prison or institution under the jurisdiction of the Department of Corrections shall be considered in "employment" for all purposes under this division in connection with any productive work by inmates who do or may receive compensation pursuant to Section 2700, 2762, 2782, 3323, or other provision of the Penal Code, or in connection with the participation by inmates in a vocational training program approved by the Department of Corrections as permitted in the Constitution. Except as modified by this chapter, any such inmate shall, after his or her release on parole or discharge, be eligible for benefits on the same terms and conditions as are specified by this part, and Part 3 (commencing with Section 3501) and Part 4 (commencing with Section 4001) of this division, for all other individuals, and unemployment compensation disability benefits on the same terms and conditions as are specified by Part 2 (commencing with Section 2601) of this division for all other individuals.

For unemployment compensation benefits purposes, an individual may use wages, as defined by Section 1481, only with respect to the benefit year established by the first new claim for unemployment compensation benefits, including any extended duration benefits or federal-state extended benefits related to that new claim. Notwithstanding any other provision of this division, in no event shall any such individual receive payments of unemployment compensation benefits, extended duration benefits, federal-state extended benefits, or disability benefits, separately or in any combination, for more than 26 weeks. No new claims for unemployment compensation benefits or first claims for disability benefits pursuant to this chapter may be filed with an effective date or period of disability commencing on or after October 31, 1983, if such claim uses wages as defined by Section 1481. No provision of this chapter shall apply to any inmate or individual who has a valid claim for unemployment compensation benefits pursuant to other provisions of this part, or who has a valid claim for disability benefits pursuant to Part 2 (commencing with Section 2601) of this division. Except as inconsistent with the provisions of this chapter, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this chapter.

1481. "Wages of inmates" means an amount computed at two dollars and thirty cents ($2.30) per hour of "employment" as defined by Section 1480, commencing January 1, 1977, regardless of any compensation received by inmates.

1482. Subdivision (a) of Section 1281 shall not apply to wages as defined by Section 1481. An individual cannot establish a valid claim or a benefit year during which any benefits are payable for unemployment compensation benefits based on wages for employment, as defined by Section 1481, unless he or she has during his or her base period been paid wages for employment, as defined by Section 1481, of not less than one thousand five hundred dollars ($1,500).

1483. (a) In lieu of the contributions required of employers and workers under this division, the State of California shall pay into the Unemployment Fund in the State Treasury at the times and in the manner provided in subdivision (b) of this section, an amount equal to the additional cost to the Unemployment Fund, and an amount equal to the additional cost to the Disability Fund, of the benefits paid with respect to employment of, and payment of wages of inmates to, inmates of any state prison or institution confined under the jurisdiction of the Department of Corrections. Unemployment compensation benefits otherwise payable, irrespective of this chapter, shall be charged to employers' reserve accounts in accordance with other sections of this part and benefits, including extended duration benefits and federal-state extended benefits, shall be the liability of governmental entities or nonprofit organizations pursuant to Section 803, but the additional cost to the Unemployment Fund of the benefits, including extended duration

benefits and federal-state extended benefits, paid pursuant to this chapter shall be borne solely by the State of California. Unemployment compensation disability benefits otherwise payable, irrespective of this chapter, shall be the liability of the Disability Fund in accordance with other sections of this division, but the additional cost to the Disability Fund of the unemployment compensation disability benefits paid pursuant to this chapter shall be borne solely by the State of California.

(b) In making the payments prescribed by subdivision (a) of this section, there shall be paid or credited to the Unemployment Fund and to the Disability Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund and the Disability Fund will be entitled to receive from the State of California under this section for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the respective fund. Such estimates may be made upon the basis of statistical sampling, or other method as may be determined by the director

Upon making such determination, the director shall certify to the Controller the amount determined with respect to the State of California. The Controller shall pay to the Unemployment Fund and to the Disability Fund the contributions due from the State of California.

(c) The director may require from the Department of Corrections such employment, wage, financial, statistical, or other information and reports, properly verified, as may be deemed necessary by the director to carry out his or her duties under this division, which shall be filed with the director at the time and in the manner prescribed by him or her.

(d) The director may tabulate and publish information obtained pursuant to this chapter in statistical form and may divulge the name of the employing unit.

(e) The Department of Corrections shall keep such work records as may be prescribed by the director for the proper administration of this division.

(f) Notwithstanding any other provision of law, the State of California shall not be liable for that portion of any extended duration benefits or federal-state extended benefits which is reimbursed or reimbursable by the federal government to the State of California.

(g) The Department of Corrections shall provide each inmate, at the time of his or her release on parole or discharge, with written information advising the inmate of benefit rights pursuant to this chapter.

1484. The Department of Corrections, in cooperation with the Employment Development Department, shall report to the Legislature on the effectiveness of this chapter not later than July 1,

1981 Such report shall include, but not be limited to, a comprehensive analysis of the rate of new convictions of persons receiving payments under this chapter, and an evaluation of the extent to which payments under this chapter have been beneficial in the return to productive employment of persons receiving such payments, and in reducing the rate of recidivism.

SEC. 4. This act shall remain in effect only until November 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before November 1, 1983, deletes or extends such date. Any new claim for unemployment compensation benefits or first claims for disability benefits pursuant to this chapter filed with an effective date or period of disability commencing prior to November 1, 1983, shall continue to receive benefits provided by this chapter after November 1, 1983, provided, however, that no claim for benefits pursuant to this chapter may use wages, as defined by Section 1481, which are earned after July 1, 1982.

SEC. 5. This act shall be operative on July 1, 1978.

CHAPTER 1150

An act to add Section 1203.09 to the Penal Code, and to amend Section 707 of the Welfare and Institutions Code, relating to crimes.

[Approved by the Governor September 29, 1977 Filed with Secretary of State September 29, 1977]

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

SECTION 1. Section 1203.09 is added to the Penal Code, to read:

1203.09. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who commits or attempts to commit one or more of the crimes listed in subdivision (b) against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, or a quadriplegic, and such disability is known or reasonably should be known to the person committing the crime; and who during the course of the offense inflicts great bodily injury upon such person.

(b) Subdivision (a) applies to the following crimes:

(i) Murder.

(ii) Assault with intent to commit murder, in violation of Section 217.

(iii) Robbery, in violation of Section 211.

(iv) Kidnapping, in violation of Section 207.

(v) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(vi) Burglary of the first degree, as defined in Section 460.

(vii) Rape by force or violence, in violation of subdivision (2) of

Section 261.

(viii) Rape by threat of great and immediate bodily harm, in violation of subdivision (3) of Section 261.

(ix) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.

(c) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) As used in this section "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

(e) This section shall apply in all cases, including those cases where the infliction of great bodily injury is an element of the offense.

SEC. 2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) In any case in which a minor is alleged to be a person

described in Section 602 by reason of the violation, when he was 16 years of age or older, of one of the following offenses:

(1) Murder;

(2) Arson of an inhabited building;

(3) Robbery while armed with a dangerous or deadly weapon;

(4) Rape with force or violence or threat of great bodily harm,

(5) Kidnapping for ransom;

(6) Kidnapping for purpose of robbery;

(7) Kidnapping with bodily harm;

(8) Assault with intent to murder or attempted murder;

(9) Assault with a firearm or destructive device;

(10) Assault by any means of force likely to produce great bodily injury;

(11) Discharge of a firearm into an inhabited or occupied building;

(12) Any offense described in Section 1203.09 of the Penal Code, upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the juvenile court shall find that the minor is not a fit and proper subject to be dealt with under the juvenile court law unless it concludes that the minor would be amenable to the care, treatment and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor, and

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction, and

(iii) The minor's previous delinquent history, and

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor, and

(v) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and reasons therefor shall be recited in the order. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at such hearing

CHAPTER 1151

An act to add and repeal Chapter 2.3 (commencing with Section 999b) to Title 6 of Part 2 of the Penal Code, relating to career criminals, and making an appropriation therefor

[Approved by Governor September 29, 1977 Filed with Secretary of State September 29, 1977]

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

SECTION 1. Chapter 2.3 (commencing with Section 999b) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2 3. CAREER CRIMINALS

999b. The Legislature hereby finds a substantial and disproportionate amount of serious crime is committed against the people of California by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute career criminals through organizational and operational techniques that have been proven effective in selected counties in this and other states.

999c. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Career Criminal Prosecution Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria set forth below in Sections 999d, 999e, 999f, and 999g.

(c) Such allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Prosecution Program, be made available to support the prosecution of felony cases.

(d) On or before April 1, 1978, and in consultation with the Attorney General, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Career Criminal Prosecution Program, consistent with this chapter In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a

complete and final draft of them shall be submitted on or before March 1, 1978, to the chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(e) Annually, commencing October 1, 1978, the executive director shall prepare a report to the Legislature describing in detail the operation of the statewide program and the results obtained of career criminal prosecution units of district attorneys' offices receiving funds under this chapter and under comparable federally-financed awards.

999d. Career criminal prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 999e. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) "Vertical" prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a career criminal case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase;

(b) Assignment of highly qualified investigators and prosecutors to career criminal cases; and

(c) Significant reduction of caseloads for investigators and prosecutors assigned to career criminal cases.

999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto; and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of such felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision:

(1) Robbery by a person armed with a deadly or dangerous weapon, burglary of the first degree, arson as defined in Section 447a or 448a, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder

(2) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has

served in state prison

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of such one or more felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the defendant; and (2) the number and the seriousness of the offenses currently charged against the defendant.

999f. Subject to reasonable prosecutorial discretion, each district attorney's office establishing a career criminal prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for career criminal cases:

(a) A plea of guilty or a trial conviction will be sought on the most serious offense charged in the accusatory pleading against an individual meeting career criminal selection criteria

(b) All reasonable prosecutorial efforts will be made to resist the pretrial release of a charged defendant meeting career criminal selection criteria.

(c) All reasonable prosecutorial efforts will be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution as a career criminal.

(d) All reasonable prosecutorial efforts will be made to reduce the time between arrest and disposition of charge against an individual meeting career criminal selection criteria.

(e) The prosecution shall not negotiate an agreement with a career criminal:

(1) That permits the defendant to plead guilty or nolo contendere to an offense lesser in degree or in kind than the most serious offense charged in the information or indictment;

(2) That the prosecution shall not oppose the defendant's request for a particular sentence if below the maximum; or

(3) That a specific sentence is the appropriate disposition of the case if below the maximum

999g The selection criteria set forth in Section 999e and the policies of Section 999f shall be adhered to for each career criminal case unless, in the reasonable exercise of prosecutor's discretion, one or more of the following circumstances are found to apply to a particular case:

(a) The facts or available evidence do not warrant prosecution on the most serious offense charged.

(b) Prosecution of the most serious offense charged, if successful, would not add to the severity of the maximum sentence otherwise applicable to the case

(c) Departure from such policies with respect to a particular career criminal defendant would substantially improve the

likelihood of successful prosecution of one or more other felony cases.

(d) Extraordinary circumstances require the departure from such policies in order to promote the general purposes and intent of this chapter.

999h. The characterization of a defendant as a "career criminal" as defined by this chapter may not be communicated to the trier of fact.

SEC. 2. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning without regard to fiscal years for costs of administration of this act and for allocation by the Office of Criminal Justice Planning to district attorneys' offices and the Attorney General for the purposes of this act It is the intent of the Legislature that any additional funding shall be requested in the annual Budget Act

SEC. 3. This act shall remain operative only until January 1, 1982, and on such date is repealed.

CHAPTER 1152

An act to amend Sections 859b, 1043, and 1050 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 29, 1977 Filed with Secretary of State September 29, 1977]

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

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

859b. At the time the defendant appears before the magistrate for arraignment, if the public offense is a felony to which the defendant has not pleaded guilty in accordance with Section 859a, the magistrate, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time therefor as provided in Section 859, must set a time for the examination of the case and must allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. He must also issue subpoenas, subscribed by him, for witnesses within the state, required either by the prosecution or the defense

Both the defendant and the people have the right to a preliminary examination at the earliest possible time, and unless both waive that right or good cause for a continuance is found as provided for in Section 1050, the preliminary examination shall be held within 10 court days of the date the defendant is arraigned or pleads, whichever occurs later In no instance shall the preliminary examination be continued beyond 10 court days from such arraignment or plea whenever the defendant is in custody at the

time of such arraignment or plea and the defendant does not personally waive his right to preliminary examination within such 10 court days.

SEC. 2. Section 1043 of the Penal Code is amended to read:

1043. (a) Except as otherwise provided in this section, the defendant in a felony case shall be personally present at the trial.

(b) The absence of the defendent in a felony case after the trial has commenced in his presence shall not prevent continuing the trial to, and including, the return of the verdict in any of the following cases:

(1) Any case in which the defendant, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that the trial cannot be carried on with him in the courtroom.

(2) Any prosecution for an offense which is not punishable by death in which the defendant is voluntarily absent.

(c) Any defendant who is absent from a trial pursuant to paragraph (1) of subdivision (b) may reclaim his right to be present at the trial as soon as he is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.

(d) Subdivisions (a) and (b) shall not limit the right of a defendant to waive his right to be present in accordance with Section 977.

(e) If the defendant in a misdemeanor case fails to appear in person at the time set for trial or during the course of trial, the court shall proceed with the trial, unless good cause for a continuance exists, if the defendant has authorized his counsel to proceed in his absence pursuant to subdivision (a) of Section 977

If there is no authorization pursuant to subdivision (a) of Section 977 and if the defendant fails to appear in person at the time set for trial or during the course of trial, the court, in its discretion, may do one or more of the following, as it deems appropriate·

(1) Continue the matter.

(2) Order bail forfeited or revoke release on the defendant's own recognizance.

(3) Issue a bench warrant.

(4) Proceed with the trial if the court finds the defendant has absented himself voluntarily with full knowledge that the trial is to be held or is being held.

Nothing herein shall limit the right of the court to order the defendant to be personally present at the trial for purposes of identification unless counsel stipulate to the issue of identity.

SEC. 3. Section 1050 of the Penal Code is amended to read:

1050. The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time To this end the Legislature finds that the criminal courts are becoming increasingly

congested with resulting adverse consequences to the welfare of the people and the defendant. It is therefore recognized that both the people and the defendant have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both the prosecution and the defense, to expedite such proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

To continue any hearing in a criminal proceeding, including the trial, a written notice must be filed within two court days of the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance Continuances shall be granted only upon a showing of good cause. Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days. A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the facts proved which require the continuance shall be entered upon the minutes of the court. Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382 of this code, the court must immediately notify the Chairman of the Judicial Council

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CHAPTER 1153

An act to add Section 1203 08 to the Penal Code, relating to mandatory imprisonment

[Approved by Governor September 29, 1977 Filed with Secretary of State September 29, 1977]

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

SECTION 1. Section 1203.08 is added to the Penal Code, to read.

1203.08 (a) Any person convicted of an offense punishable by imprisonment in a state prison but without an alternate sentence to the county jail shall not, in any case, be granted probation or have the execution or imposition of sentence suspended, if such offense was committed while the person was on state prison parole, pursuant to Section 3000, following a term of imprisonment imposed for a

crime listed in subdivision (c) of Section 667.5.

(b) Any person convicted of an offense listed in subdivision (c) of Section 667 5, shall not, in any case, be granted probation or have the execution or imposition of sentence suspended, if such offense was committed while the person was on state prison parole, pursuant to Section 3000.

(c) The existence of any fact which would make a person ineligible for probation under subdivision (a) or (b) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

CHAPTER 1154

An act to amend Section 1 of Chapter 1087 of the Statutes of 1973, and to add Section 5006.8 to the Public Resources Code, relating to parks and recreation, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

The people of the State of California do enact as follows

SECTION 1. Section 1 of Chapter 1087 of the Statutes of 1973 is amended to read·

Section 1 (a) The Department of Parks and Recreation shall acquire and develop real property at Candlestick Point, at the earliest possible time, for the state park system.

(b) In the course of developing Candlestick Point Recreation Area, the Department of Parks and Recreation shall closely cooperate and consult with the Candlestick Point Recreation Area Citizens' Advisory Committee.

(c) Any funds from whatever source, including, but not limited to, the appropriation made in Item 350 (gg) of the Budget Act of 1973 (Ch 129, Stats. 1973) and the subsequent reappropriations thereof made in subdivision (gg) of Section 10.07 of the Budget Act of 1976 (Ch 320, Stats. 1976) and paragraph 22 of subdivision (c) of Section 10 07 of the Budget Act of 1977 (Ch. 219, Stats. 1977), that are appropriated, but are not expended or needed in the period for which they are appropriated, for the acquisition of real property at Candlestick Point shall be encumbered in that period by the Department of Parks and Recreation for the development of the real property thus acquired. The department may not, however, encumber any such funds for development unless and until a plan of development of the real property at Candlestick Point has been approved by the Legislature by statute

SEC. 2. Section 5006.8 is added to the Public Resources Code, to read:

5006.8. The department shall retain in perpetuity, as a unit of the state park system, the state recreation area at Candlestick Point and may enter into an agreement with the City and County of San Francisco for the operation and maintenance by the city and county of all or any part of that unit under such terms and conditions as the parties may agree.

CHAPTER 1155

An act to repeal Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code, to add Sections 66645 and 66646 to the Government Code, to amend Sections 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526 of, and to add Sections 25103.3 and 25103.7 to, to add Chapter 12 (commencing with Section 9960) to Division 9 of, and to add Division 19 (commencing with Section 29000) to, the Public Resources Code, to amend Section 402.1 of the Revenue and Taxation Code, and to amend Section 10.15 of the Budget Act of 1977 (Ch. 219, Stats. 1977), relating to public resources.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code is repealed.

SEC. 2. Chapter 12 (commencing with Section 9960) is added to Division 9 of the Public Resources Code, to read:

CHAPTER 12. SUISUN RESOURCE CONSERVATION DISTRICT

9960. The following definitions shall govern the interpretation of this chapter:

(a) "Suisun Marsh" means the Suisun Marsh as defined in Section 29101.

(b) "Primary management area" means the primary management area as defined in Section 29102.

(c) "Suisun Marsh Protection Plan" means the plan identified and defined in Section 29113.

(d) "District" means the Suisun Resource Conservation District.

(e) "Board" means the board of directors of the district.

9961. Except as otherwise expressly provided in this chapter, the organization, powers, and functions of the district shall be governed by the provisions of this division.

9962. The district shall have primary local responsibility for regulating and improving water management practices on privately

owned lands within the primary management area of the Suisun Marsh in conformity with Division 19 (commencing with Section 29000) and the Suisun Marsh Protection Plan. To carry out this responsibility, the district shall have the following powers in addition to those conferred on the district by this division:

(a) The district shall issue regulations requiring compliance with any water management plan or program for privately owned lands within the primary management area if such plan or program has been prepared by the district and approved and certified by the San Francisco Bay Conservation and Development Commission as a component of the local protection program required by Chapter 6 (commencing with Section 29500) of Division 19. Violation of any such regulation by any person is a misdemeanor.

(b) In addition to any other assessment authorized by this division, within an improvement district within the district, the board shall levy a separate assessment in an amount equal to the annual costs of normal operations and maintenance, if any, within the improvement district Except as expressly provided in Section 9964, any such assessment shall otherwise be established, levied, and apportioned in accordance with the provisions of Chapter 10 (beginning with Section 9801) of this division.

9963 Notwithstanding the provisions of Section 9803, the formation of an improvement district within the primary management area may be proposed and the petition therefor may be signed by a majority of the members of the board. Thereafter, proceedings with regard to the formation of the proposed improvement district shall be in accordance with Sections 9804 through 9821, inclusive However, wherever "petition" is used in those provisions, it shall be deemed to refer to the petition of the majority of the members of the board; and, notwithstanding Section 9817, the petition shall not be required to be dismissed unless more than one-half of the holders of title to the real property within the proposed improvement district object to its formation or the levy of the proposed assessment.

SEC. 3. Section 66645 is added to the Government Code, to read:

66645 (a) In addition to the provisions of Sections 25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526 of the Public Resources Code, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) After one or more public hearings, and prior to January 1, 1979, the commission shall designate those specific locations within the Suisun Marsh, as defined in Section 29101 of the Public Resources Code, or the area of jurisdiction of the commission, where the location of a facility, as defined in Section 25110 of the Public Resources Code, would be inconsistent with this title or Division 19 (commencing with Section 29000) of the Public Resources Code The following locations, however, shall not be so designated (1) any

property of a utility that is used for such a facility or will be used for the reasonable expansion thereof; (2) any site for which a notice of intention to file an application for certification has been filed pursuant to Section 25502 of the Public Resources Code prior to January 1, 1978, and is subsequently approved pursuant to Section 22516 of the Public Resources Code; and (3) the area east of Collinsville Road that is designated for water-related industrial use on the Suisun Marsh Protection Plan Map. Each designation made pursuant to this section shall include a description of the boundaries of such locations, the provisions of this title or Division 19 (commencing with Section 29000) of the Public Resources Code with which they would be inconsistent, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309 of the Public Resources Code. The commission also shall request the assistance of the State Energy Resources Conservation and Development Commission in carrying out the requirements of this section. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) Every two years the commission shall revise and update the designations specified in subdivision (b) of this section. The provisions of subdivision (b) of this section shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed pursuant to Section 25502 of the Public Resources Code prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the Suisun Marsh or the area of jurisdiction of the commission, the commission shall participate in such proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the Suisun Marsh or the area of jurisdiction of the commission. The commission shall analyze each notice of intention and, prior to completion of the preliminary report required by Section 25510 of the Public Resources Code, shall forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in such notice. The commission's report shall contain a consideration of, and findings regarding, the following:

(1) If it is to be located within the Suisun Marsh, the consistency of the proposed site and related facilities, with the provisions of this title and Division 19 (commencing with Section 29000) of the Public Resources Code, the policies of the Suisun Marsh Protection Plan (as defined in Section 29113 of the Public Resources Code) and the certified local protection program (as defined in Section 29111 of the Public Resources Code) if any

(2) If it is to be located within the area of jurisdiction of the commission, the consistency of the proposed site and related facilities with the provisions of this title and the San Francisco Bay Plan.

(3) The degree to which the proposed site and related facilities could reasonably be modified so as to be consistent with the provisions of this title, Division 19 (commencing with Section 29000) of the Public Resources Code, the Suisun Marsh Protection Plan, or the San Francisco Bay Plan

(4) Such other matters as the commission deems appropriate and necessary to carry out the provisions of Division 19 (commencing with Section 29000) of the Public Resources Code.

SEC. 3.5 Section 66646 is added to the Government Code, to read:

66646. Notwithstanding any other provision of this title, except subdivisions (b) and (c) of Section 66645, and notwithstanding any provision of Division 19 (commencing with Section 29000) of the Public Resources Code, new or expanded thermal electric generating plants may be constructed within the Suisun Marsh, as defined in Section 29101 of the Public Resources Code, or the area of jurisdiction of the commission, if the proposed site has been determined, pursuant to the provisions of Section 25516.1 of the Public Resources Code, by the State Energy Resources Conservation and Development Commission to have greater relative merit than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable pursuant to the provisions of Section 25516 of the Public Resources Code.

SEC. 4. Section 25103.3 is added to the Public Resources Code, to read:

25103.3 "Suisun Marsh" means the Suisun Marsh, as defined in Section 29101.

SEC. 5. Section 25103.7 is added to the Public Resources Code, to read:

25103.7 "Jurisdiction of the San Francisco Bay Conservation and Development Commission" means the area defined in Section 66610 of the Government Code

SEC. 6 Section 25507 of the Public Resources Code is amended to read

25507 (a) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the coastal zone, the commission shall transmit a copy of the notice to the California Coastal Commission The California Coastal Commission shall analyze the notice and prepare the report and findings

prescribed by subdivision (d) of Section 30413 prior to completion of the preliminary report required by Section 25510.

(b) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the Suisun Marsh, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the notice to the San Francisco Bay Conservation and Development Commission. The San Francisco Bay Conservation and Development Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 66645 of the Government Code prior to completion of the preliminary report required by Section 25510.

SEC. 7. Section 25508 of the Public Resources Code is amended to read:

25508. The commission shall cooperate with, and render advice to, the California Coastal Commission and the San Francisco Bay Conservation and Development Commission in studying applications for any site and related facility proposed to be located, in whole or in part, within the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission if requested by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be. The California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be, may participate in public hearings on the notice and on the application for site and related facility certification as an interested party in such proceedings.

SEC. 8. Section 25514 of the Public Resources Code is amended to read.

25514. Not later than 120 days after distribution of the preliminary report, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or presented at the informational hearing or hearings and reviewed by the commission with both of the following:

(1) The 10-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309, except as provided in Section 25514.5.

(2) The provisions of any state law or local or regional ordinance or regulation, including any long range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

(d) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to the provisions of Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission

(e) Any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from the commission's evaluation pursuant to subdivision (c) of Section 25512.

SEC. 9. Section 25516.1 of the Public Resources Code is amended to read·

25516 1 If a site and related facility found to be acceptable by the commission pursuant to Section 25516 is located in the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission, no application for certification may be filed pursuant to Section 25519 unless the commission has determined, pursuant to Section 25514, that such site and related facility have greater relative merit than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable by the commission pursuant to Section 25516.

SEC 10. Section 25519 of the Public Resources Code is amended to read.

25519. (a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission Such application shall be in a form prescribed by the commission and shall be filed with the commission not later than 18 months before any construction is to commence Such application shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple-facility site pursuant to Section 25514 5 and found to be acceptable pursuant to Sections 25516 and 25516.5 An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520 5 An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any

information, document, or data, in addition to the attachments required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) Upon receipt of the application, the commission shall undertake studies and investigations necessary to comply with the environmental impact reporting procedures established pursuant to Section 21100. For purposes of preparation and approval of the environmental impact report on a proposed site and related facility, the commission shall be the lead agency as provided in Section 21165. Except as otherwise provided in Division 13 (commencing with Section 21000), the environmental impact report shall be completed within one year after receipt of the application.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(i) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the

proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(j) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(k) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

SEC. 11. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which shall include all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is

noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) Findings regarding the conformity of the proposed facility with the 10-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309.

SEC. 12. Section 25526 of the Public Resources Code is amended to read:

25526. (a) The commission shall not approve as a site for a facility any location designated by the California Coastal Commission pursuant to subdivision (b) of Section 30413, unless the California Coastal Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.

(b) The commission shall not approve as a site for a facility any location designated by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (b) of Section 66645 of the Government Code unless the San Francisco Bay Conservation and Development Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of such land is obtained.

SEC. 13. Division 19 (commencing with Section 29000) is added to the Public Resources Code, to read:

DIVISION 19. SUISUN MARSH PRESERVATION

CHAPTER 1. GENERAL PROVISIONS

29000. This division shall be known and may be cited as the Suisun Marsh Preservation Act of 1977

29002. The Legislature hereby finds and declares that the Suisun Marsh, consisting of approximately 55,000 acres of marshland and 30,000 acres of bays and sloughs, and comprising almost 10 percent of the remaining natural wetlands in California, plays an important role in providing wintering habitat for waterfowl of the Pacific Flyway; that during years of drought the area becomes particularly important to waterfowl by virtue of its large expanse of aquatic habitat and the scarcity of such habitat elsewhere; that the area provides critical habitat for other wildlife forms, including such endangered, rare, or unique species as the peregrine falcon,

white-tailed kite, golden eagle, California clapper rail, black rail, salt-marsh harvest mouse, and Suisun shrew; that the existence of this wide variety of wildlife is due to the relatively large expanse of unbroken native habitat and the diversity of vegetation and aquatic conditions that prevail in the marsh; that man is an integral part of the present marsh ecosystem and, to a significant extent, exercises control over the widespread presence of water and the abundant source of waterfowl foods; that the Suisun Marsh represents a unique and irreplaceable resource to the people of the state and nation; that future residential, commercial, and industrial developments could adversely affect the wildlife value of the area; and that it is the policy of the state to preserve and protect resources of this nature for the enjoyment of the current and succeeding generations.

29003. The Legislature further finds and declares that, in order to preserve the integrity and assure continued wildlife use of the Suisun Marsh, including the preservation of its waterfowl-carrying capacity and retention of the diversity of its flora and fauna, there is a need for all of the following:

(a) Provisions for establishment and maintenance of adequate water quality

(b) Improvement of present water management practices, including drainage and other water control facilities within the Suisun Marsh.

(c) Establishment of criteria for the production of valuable waterfowl food plants.

(d) Provisions for future supplemental water supplies and related facilities to assure that adequate water quality will be achieved within the wetland areas

(e) Development and implementation of plans and policies to protect the marsh from degradation by excessive human use.

(f) Definition and establishment of a buffer area consisting of upland areas that have high wildlife values themselves and also contribute to the integrity and continued wildlife use of the wetlands within the marsh.

29004. The Legislature further finds and declares as follows:

(a) That the San Francisco Bay Conservation and Development Commission and the Department of Fish and Game, pursuant to the Nejedly-Bagley-Z'berg Suisun Marsh Preservation Act of 1974 (former Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code), have made a detailed study of the Suisun Marsh; that there has been extensive participation by other governmental agencies, private interests, and the general public in the study; and that, based on the study, the commission has prepared the Suisun Marsh Protection Plan for the orderly and long-range conservation, use, and management of the natural, scenic, recreational, and manmade resources of the marsh.

(b) That the Suisun Marsh Protection Plan contains a series of recommendations which require implementation by the Legislature; and, accordingly, these recommendations are implemented in the

manner provided in this division.

29005. The Legislature further finds and declares as follows:

(a) That, to achieve maximum responsiveness to local conditions, public accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement.

(b) That, to ensure maximum state and federal conformity with the provisions of this division; to protect regional, state, and national interests in assuring the maintenance of the long-term productivity of the Suisun Marsh; to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of the marsh; to coordinate and integrate the activities of the many agencies whose activities impact the marsh; and to supplement the activities of such agencies in matters not properly within the jurisdiction of any existing agency; it is appropriate to provide for continued state planning and management through the San Francisco Bay Conservation and Development Commission, which since 1965 has exercised jurisdiction over a substantial portion of the Suisun Marsh pursuant to Title 7.2 (commencing with Section 66600) of the Government Code

29006. No provision of this division is a limitation on any of the following:

(a) On the power of a city, county, or district, except as otherwise limited by state law, to adopt and enforce regulations, in addition to, and not in conflict with, the requirements of this division, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity that might adversely affect the resources of the marsh.

(b) On the power of any city, county, or district to declare, prohibit, and abate nuisances.

(c) On the power of the Attorney General to bring an action in the name of the people of the state on his own motion or at the request of any state agency having standing under provisions of law other than this division, to enjoin any waste or pollution of the marsh or any nuisance.

(d) On the right of any person to maintain an appropriate action for relief against a private nuisance or any other private relief.

29007. The Legislature further finds and declares that the public has a right to participate fully in governmental decisions affecting planning, conservation, and development of the Suisun Marsh; that achievement of sound protection of the marsh is dependent upon public understanding and support; and that continuing planning and implementation of programs for marsh protection should include the opportunity for public participation.

29008. The Legislature further finds and declares that the Suisun Marsh Protection Plan is a more specific application of the general, regional policies of the San Francisco Bay Plan prepared and administered by the San Francisco Bay Conservation and Development Commission pursuant to Title 7.2 (commencing with

Section 66600) of the Government Code, and is an appropriate supplement to those policies because of the unique characteristics of the Suisun Marsh. Therefore, the Legislature declares that the appropriate policies of both the San Francisco Bay Plan and the Suisun Marsh Protection Plan shall apply within any area that is within the commission's jurisdiction, as defined in Section 66610 of the Government Code, and that is also within the marsh, as defined in Section 29101 of this code, except where the San Francisco Bay Plan and the Suisun Marsh Protection Plan may conflict. If a conflict occurs in a specific instance, the policies of the Suisun Marsh Protection Plan shall control.

29009. The Legislature further finds and declares that land within or adjacent to the Suisun Marsh should be acquired for public use or resource management, or both, and facilities suitable for such purposes should be constructed thereon, if the land meets one or more of the following criteria:

(a) It is suitable for passive recreational purposes such as fishing and nature observation and is located in the outer portions of the marsh near population centers or existing transportation routes, such as State Highway Route 12.

(b) It is suitable for the purpose of restoring areas to tidal action or to marsh or managed-wetland conditions and such restoration cannot be required as a condition of private development.

(c) It is suitable for providing additional wildlife habitat necessary to effective wildlife management, including consolidation of management units and improved public hunting opportunities. Acquisitions within this category should avoid privately owned property already managed as wildlife habitat unless offered for sale to the state.

29010. (a) The Legislature further finds that.

(1) The Suisun Marsh is located where the saltwater of the Pacific Ocean and the freshwater of the Sacramento and San Joaquin River Delta meet and mix; and because of its location, the marsh provides a transition zone between salt- and fresh-water habitats, creating a unique diversity of fish and wildlife habitats.

(2) Water quality in the marsh is dependent on the salinity of the water in sloughs of the marsh, which depends in turn on the amount of freshwater flowing in from the delta.

(3) Numerous upstream storage facilities, together with diversions of water from the delta and tributary streams of the delta, have substantially reduced the amount of freshwater flowing into the marsh from the delta

(4) Further substantial diversions are planned, and these diversions will have adverse impacts in the marsh through increased salinity intrusion unless adequate mitigation measures are taken

(5) Possible mitigation measures, including the development of other sources of freshwater for the marsh, have been under study by a variety of state and federal agencies.

(6) Protection of the marsh from salinity intrusion, particularly

protection through the development of alternative sources of freshwater for the marsh, cannot be considered independently of other issues relating to the management of California's water resources, and discussions are now underway among various agencies of the state and federal governments to resolve such issues.

(b) The Legislature, therefore, declares that it expects any resolution of these issues, whether by written agreement, federal legislation, state legislation, or any combination thereof, will protect the marsh from the adverse impacts of salinity intrusion and from any other significant adverse impacts.

29011. The Legislature further finds and declares that the Suisun Marsh is a fragile ecological system and that, in order to protect wildlife, many areas of the marsh should not be subject to extensive human intrusion. Highest priority, therefore, should be given to developing and maintaining opportunities for public access on lands currently in, or in the future to be in, public ownership.

29012. This division shall be liberally construed to accomplish its purposes and objectives.

29013. The Legislature hereby finds and declares that this division is not intended to authorize, and shall not be construed as authorizing, the commission or local government acting pursuant to this division, to exercise their powers to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or of the United States.

29014. The Legislature finds and declares it is not its intent in enacting this division to grant the commission any authority over any development outside the Suisun Marsh, except as expressly authorized in Chapter 3 (commencing with Section 29200) and in Chapter 5 (commencing with Section 29400). Except as provided in Chapter 3 (commencing with Section 29200), neither the provisions of this division nor of the Suisun Marsh Protection Plan shall apply to any permit, development, or any other action or project which occurs outside of the marsh prior to the approval of the local protection program and its certification by the commission, as provided in Article 2 (commencing with Section 29410) of Chapter 5.

CHAPTER 2. DEFINITIONS

29100. Unless the context requires otherwise, the definitions set forth in this chapter govern the interpretation of this division.

29101. "Suisun Marsh" or "marsh" means water-covered areas, tidal marsh, diked-off wetlands, seasonal marshes, lowland grasslands, upland grasslands, and cultivated lands specified on the map identified in Section 16 of that chapter of the Statutes of the 1977–78 Regular Session enacting this division It includes both the

primary and secondary management areas as shown on the Suisun Marsh Protection Plan Map and includes the entire right-of-way of any state highway that is designated as a portion of the boundary of the marsh.

29102. "Primary management area" means water-covered areas, tidal marsh, diked-off wetlands, seasonal marsh, and lowland grassland specified on the map identified in Section 16 of that chapter of the Statutes of the 1977–78 Regular Session enacting this division.

29103. "Secondary management area" means the upland grasslands, cultivated lands, and low-lying areas adjacent to the primary management area specified on the map identified in Section 16 of that chapter of the Statutes of the 1977–78 Regular Session enacting this division.

29104. "Watershed" means the immediate watershed of the marsh upland from the secondary management area and located in the County of Solano, including those creeks, streams, channels, or other water areas in the County of Solano that are tributary to, or flow into, the marsh. "Creeks, streams, channels, or other water areas" includes areas that are riparian thereto.

29105. "Managed wetland" means those diked areas in the marsh in which water inflow and outflow is artificially controlled or in which waterfowl food plants are cultivated, or both, to enhance habitat conditions for waterfowl and other water-associated birds, wildlife, or fish, regardless of whether such areas are used for hunting or fishing or nonconsumptive uses such as nature study, photography, and similar passive wildlife activities, or a combination of both such consumptive and nonconsumptive uses.

29106. "Commission" means the San Francisco Bay Conservation and Development Commission created by Title 7.2 (commencing with Section 66600) of the Government Code.

29107. "Department" means the Department of Fish and Game.

29108. "County" means the County of Solano.

29109. "Local government" means the County of Solano and the Cities of Suisun City, Fairfield, and Benicia.

29110. "District" means any public agency, other than a local government, formed pursuant to general law or special act for the local performance of governmental or proprietary functions within limited boundaries. "District" includes, but is not limited to, a county service area, a maintenance district or area, an improvement district or improvement zone, a mosquito abatement district, a resource conservation district, an irrigation district, a reclamation district, a sanitary or sewer district, or any other zone or area, formed for the purpose of designating an area within which either an assessment or a property tax rate will be levied to pay for a service or improvement benefiting that area or a special function will be carried out within that area.

29111. "Local protection program" means those provisions of general or specific plans; ordinances, zoning district maps; land use

regulations, procedures, or controls; or any other programs, procedures, standards, or controls that are adopted, undertaken, or carried out by local governments, districts, or the Solano County Local Agency Formation Commission in and adjacent to the marsh, are submitted by the county to the commission pursuant to Chapter 5 (commencing with Section 29400), and meet the requirements of, and implement, this division and the Suisun Marsh Protection Plan at the local level.

29112. "Local protection program component" or "component" means a part of the local protection program that is prepared by or submitted to the county pursuant to Section 29411 or prepared by the Suisun Resource Conservation District pursuant to Section 29412.5 for inclusion in the local protection program.

29113. (a) "Suisun Marsh Protection Plan" or "protection plan" means the Suisun Marsh Protection Plan prepared and adopted by the commission and submitted to the Governor and Legislature pursuant to former Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code. The protection plan includes the Suisun Marsh Protection Plan Map and the Suisun Marsh Protection Plan Natural Factors Map prepared as a part of such plan.

(b) "Protection plan policies" or "policies of the protection plan" means the policies set forth in Part II (pages 10 to 29, inclusive) of the protection plan.

29114. (a) "Development" means on land, or in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water or in access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes.

(b) "Development" does not include either a change in the intensity of use of water or the removal or harvesting of major vegetation where such change, removal, or harvesting is to maintain or improve wildfowl habitat and does not have a significant, adverse effect on other fish and wildlife resources in the marsh.

29115. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

29116. "Permit" means any license, certificate, approval, or other entitlement for use granted or denied by any public agency which is subject to the provisions of this division.

29117. (a) "Person" means any individual, organization, partnership, or other business association or corporation, including any utility; and the federal government, the state, any local government, or any district, or any agency thereof.

(b) "Aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision made or action appealed; or who, by other appropriate means prior to a hearing, informed the local government of the nature of his or her concerns; or who for good cause was unable to do either of the foregoing. "Aggrieved person" includes the applicant for a permit; and, with respect to the approval of the local protection program, or any component thereof, any affected local government.

CHAPTER 3. RESPONSIBILITIES OF THE COMMISSION

29200. Unless expressly provided otherwise in this division, the commission shall have the primary state responsibility for the implementation of the provisions of this division and the protection plan.

29201. In carrying out its responsibilities under this division, and in addition to the specific powers and duties of the commission under Chapters 5 (commencing with Section 29400) and 6 (commencing with Section 29500), the commission may do all of the following:

(a) Accept grants, contributions, and appropriations from any person.

(b) Appoint committees from its membership and appoint advisory committees from other interested public and private groups.

(c) Contract for or employ any professional services required by the commission or for the performance of work and services which in its opinion cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(d) Sue or be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction, including prohibitory and mandatory injunctions to restrain violations of this division.

(e) Adopt regulations consistent with this division.

(f) Do such other things as are necessary to carry out the purposes of this division and are consistent with this division.

29202. (a) Consistent with this division, the commission may amend the protection plan. Such amendments shall be made by resolution of the commission adopted after a public hearing on the proposed change, of which adequate descriptive notice shall be given. Such descriptive notice shall include a general description of the changes, if any, that would be required in the certified local protection program and whether any changes would be required in the local protection program as it applies to any area outside the marsh. If the proposed amendment pertains to a policy of the protection plan, the resolution adopting the amendment may not be

voted upon less than 90 days following notice of hearing on the proposed change and shall require the affirmative vote of two-thirds of the commission members The resolution adopting any other amendment to the protection plan may not be voted on less than 30 days following notice of hearing on the proposed amendment and shall require the affirmative vote of a majority of the commission members.

(b) Any local government or district or the Solano County Local Agency Formation Commission, if affected by any such amendment to the protection plan, shall, within one year from the effective date of such amendment, prepare and submit any amendments to the local protection program, or any component thereof, to bring such program or component into conformity with the amended protection plan

(c) No amendment to the policies of the protection plan that will require a change in the local protection program as it applies to the marsh or any area outside the marsh shall be effective until approved by the Legislature by statute if, within the 90-day period provided in subdivision (a), the local government having jurisdiction over any such area objects to such amendment in writing to the commission.

(d) No amendment to the policies of the protection plan may require a change or amendment to the component of the local protection program prepared by the Suisun Resource Conservation District until it has been approved by the Legislature by statute if, within the 90-day period provided in subdivision (a), the department objects to such amendment in writing to the commission on the grounds that such amendment would be inconsistent with this division.

(e) No amendment to the policies of the protection plan may require a change or amendment to the component of the local protection program prepared by the Solano County Mosquito Abatement District until it has been approved by the Legislature by statute if, within the 90-day period provided in subdivision (a), the Director of Health objects to such amendment in writing to the commission on the grounds that such amendment would be inconsistent with the applicable provisions of the Health and Safety Code.

29203. Not later than March 1, 1978, the commission shall prepare and adopt a detailed map for the marsh, on a scale of one inch equals 24,000 inches, which shall show both the primary and secondary management areas, and which the commission shall file with the clerk of the county Upon the filing of such map with the clerk of the county, no further changes in the boundaries of the marsh or the boundaries of the primary or secondary management areas shall be made without the approval of the Legislature by statute.

29204. Not later than July 1, 1978, the commission shall make any necessary changes in the San Francisco Bay Plan and in existing priority use area boundaries established pursuant to Section 66611 of the Government Code. Notwithstanding any provision to the

contrary in Title 7 2 (commencing with Section 66600) of the Government Code, such changes shall not require the approval of the Legislature

29205 (a) The marsh shall be considered part of the commission's segment of the California coastal zone, and this division shall be part of the commission's segment of California's coastal zone management program, for purposes of the Coastal Zone Management Act of 1972 (P.L. 92-583; 16 U.S.C. 1451 et seq.) as amended, and any other federal act heretofore or hereafter enacted or amended that relates to the planning or management of coastal zone resources.

(b) Except with respect to a facility defined in Section 25110, the commission may exercise any and all powers set forth in the Coastal Zone Management Act of 1972, as amended, or any amendment thereto, or any other federal act heretofore or hereafter enacted that relates to the planning or management of the marsh. In addition to any other authority, the commission may grant or issue any certificate or statement required pursuant to any such federal law that an activity of any person is in conformity with the provisions of this division

CHAPTER 4. RESPONSIBILITIES OF OTHER STATE AND FEDERAL AGENCIES

29300. It is the intent of the Legislature to minimize duplication and conflicts among existing state agencies carrying out their regulatory duties and responsibilities in connection with the subject matter of this division.

29301. Except as otherwise expressly provided in this division, enactment of this division does not increase, decrease, duplicate, or supersede the authority of any existing state agency.

This chapter does not limit in any way the regulatory controls over development provided in Chapters 5 (commencing with Section 29400) and 6 (commencing with Section 29500); except that the commission may not set standards or adopt regulations that duplicate regulatory controls established by any existing state agency pursuant to express statutory requirements or authorization.

29302. (a) This division imposes a judicially enforceable duty on state agencies to comply with, and to carry out their duties and responsibilities in conformity with, this division and the policies of the protection plan.

(b) However, this division does not subject any agency of the state or federal government to the permit requirements of Sections 29502, 29503, and 29504.

(c) Further, notwithstanding any policy of the protection plan to the contrary, nothing contained in this division requires any local government or state or federal agency to establish or meet a specific water quality standard in the marsh or to maintain a specific level of delta outflow.

29303. It is the intent of the Legislature that the provisions of this division, the protection plan, and the local protection program, or any component thereof, prepared pursuant to Chapter 5 (commencing with Section 29400) provide the common assumptions upon which state functional plans for the marsh are based in accordance with the provisions of Section 65036 of the Government Code.

29304. (a) The commission may periodically submit to any state agency recommendations designed to encourage such agency to carry out its functions in a manner consistent with the policies of the protection plan. The recommendations may include proposed changes in regulations, rules, and statutes.

(b) Such state agency shall review and consider such recommendations and shall, in the event the recommendations are not implemented, report to the commission or the Governor and the Legislature its action and the reasons therefor within six months after receipt of the recommendations. Such report shall also include the agency's comments on any legislation which may have been proposed by the commission.

(c) The procedures provided in this section do not relieve the commission of its responsibility to submit recommendations to other state agencies in a timely manner pursuant to existing procedures; and, to the maximum extent possible, the commission shall submit any recommendations authorized by subdivision (a) pursuant to such existing procedures.

29305. The Wildlife Conservation Board shall acquire title to, or a lesser right or interest in, in such land or water as the board determines is appropriate for the purposes of the protection plan; and, when authorized by the board, the department shall construct such facilities as are suitable for the purpose for which such acquisitions were made. Such acquisitions shall be made in accordance with the Wildlife Conservation Law of 1947 (commencing with Section 1300 of the Fish and Game Code) and the criteria specified in Section 29009 of this division.

29306. (a) The department and the Fish and Game Commission are the state agencies that are primarily responsible for the establishment and control of wildlife and fishery management programs, and the San Francisco Bay Conservation and Development Commission may not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by such agencies pursuant to express statutory requirements or authorization.

(b) The department shall have primary responsibility for carrying out fish and wildlife management programs in the marsh in accordance with the management recommendations in the protection plan on lands owned by the state and under the jurisdiction, control, or supervision of the department

29307. (a) The State Lands Commission shall have the primary responsibility, in accordance with the provisions of Division 6

(commencing with Section 6001), for carrying out the management recommendations in the protection plan on lands owned by the state and under the jurisdiction, control, or supervision of the State Lands Commission, including tidelands, submerged lands, swamp and overflowed lands, and beds of navigable rivers and streams.

(b) Prior to approval by the San Francisco Bay Conservation and Development Commission pursuant to Chapter 5 (commencing with Section 29400), the State Lands Commission shall review, and may comment on, the proposed local protection program, or any component thereof, that could affect state lands

(c) No power granted to any local government or district under this division, shall change the authority of the State Lands Commission over granted or ungranted lands within its jurisdiction or change the rights and duties of its grantees, lessees, or permittees.

(d) Boundary settlements between the State Lands Commission and other parties and any exchanges of land in connection therewith shall not be a development within the meaning of that term as used in this division.

(e) Nothing in this division shall amend or alter the terms and conditions in any legislative grant of lands, in trust, to any local government or district; except, that any development on such granted lands shall, in addition to the terms and conditions of such grant, be subject to the regulatory controls provided by Chapter 6 (commencing with Section 29500).

29308. All federal agencies, to the extent permitted under federal law or regulations or the United States Constitution, shall comply with this division and the policies of the protection plan.

CHAPTER 5. RESPONSIBILITIES OF THE COMMISSION AND LOCAL AGENCIES

Article 1. Local Protection Program

29400. The county shall prepare the local protection program for the marsh. The local protection program shall be consistent with the provisions of this division and the policies of the protection plan.

29401. Within the marsh the local protection program shall include, but not be limited to, the following:

(a) Any amendments to general or specific plans applicable to any area within the marsh necessary to bring such plans into conformity with this division and the policies of the protection plan.

(b) Enforceable standards for diking, flooding, draining, filling, and dredging of sloughs, managed wetlands, and marshes.

(c) Enforceable standards for operation of septic tanks and wastewater discharges.

(d) A management program prepared by the Suisun Resource Conservation District designed to preserve, protect, and enhance the plant and wildlife communities within the primary management area of the marsh, including, but not limited to, enforceable

standards for diking, flooding, draining, filling, and dredging of sloughs, managed wetlands, and marshes.

(e) Zoning ordinances or zoning district maps, or both, designating principal permitted uses on lands within the marsh, which ordinances or maps shall designate the existing agricultural and wildlife habitat uses of such lands as principal permitted uses of such lands.

(f) Enforceable standards for development to ensure that any use of deepwater industrial and port areas near Collinsville designated on the Suisun Marsh Protection Plan Map is in conformity with the policies of the protection plan.

(g) Enforceable standards for the design and location of any new development in the marsh to protect the visual characteristics of the marsh and, where possible, to enhance views of the marsh

(h) Enforceable standards for development designed (1) to minimize soil erosion, especially during construction in areas of soil instability, (2) to require special provisions for surface and subsurface drainage, (3) to ensure that grading restores, rather than disrupts, natural patterns and volumes of surface runoff, and (4) to limit construction of impermeable surfaces over naturally permeable soils and geologic areas, all to control erosion, sedimentation, and runoff within the marsh.

(i) Enforceable standards for development adjacent to creeks and watercourses to protect riparian habitat and to prevent waterway modification or vegetation removal that increases sedimentation or runoff in or into the marsh, to an extent that a significant, adverse environmental impact will occur in the marsh.

29402 Outside the marsh, but within the watershed, the local protection program shall include only ordinances controlling grading, erosion, sedimentation, runoff, and creekside development that meet the requirements of subdivisions (h) and (i) of Section 29401.

29403. Within the marsh, in addition to the requirements of Sections 29400 and 29401, the component of the local protection program prepared by the county shall include the following:

(a) A determination of the minimum size parcels necessary for long-term agricultural use and productivity.

(b) Enforceable standards limiting or prohibiting land divisions or other development that are inconsistent with protection of the marsh and continued agricultural use.

(c) Enforceable standards precluding agricultural uses by type and intensity that are inconsistent with the long-term preservation of the marsh.

(d) Limitations on special assessments against agricultural lands for the provision of public services, the demand for which is not generated by agricultural uses on such lands.

29404. Notwithstanding the provisions of Section 29403, the local protection program may not include any provision requiring particular crops to be planted and harvested on agricultural lands

within or adjacent to the marsh or particular types or numbers of livestock to be grazed on such lands.

29405 Notwithstanding the provisions of Sections 29400, 29401, and 29402, the local protection program for that portion of the secondary management area west of State Highway Route 680 and outside the city limits of the City of Fairfield as of January 1, 1977, may include only ordinances to be prepared by the county, in cooperation with the City of Benicia, which control grading, erosion, sediment, runoff, and creekside development and which meet the requirements of subdivisions (h) and (i) of Section 29401. Such ordinances shall take into consideration the seismic hazards and unusually erodible and landslide-prone soils at this location, and ensure that development, if any, in this portion of the secondary management area will not cause increased sedimentation within the marsh.

29406 Notwithstanding the provisions of Sections 29400, 29402, and 29403, the local protection program for the area that is located east of State Highway Route 680, southeast of State Highway Route 80, south of State Highway Route 12, and outside the marsh, and that is also located within the City of Fairfield, or within the sphere of influence of the City of Fairfield as such sphere of influence existed on January 1, 1977, may contain only (1) zoning ordinances implementing the land use designations of the Cordelia Area General Plan Diagram as adopted by the City of Fairfield on September 17, 1974, and which is a part of the Central Solano County General Plan and (2) ordinances controlling grading, erosion, sedimentation, runoff, and creekside development that meet the requirements of subdivisions (h) and (i) of Section 29401.

29407. Notwithstanding the provisions of Sections 29400, 29401, and 29403, the local protection program for that portion of the secondary management area west of Shiloh Road and south of State Highway Route 12 may not prohibit construction of reasonable improvements (including construction of individual single-family dwellings) related to the long-term continuation of existing agricultural uses; nor shall the local protection program limit or prohibit divisions of agricultural land within or adjacent to this portion of the secondary management area if such divisions of land do not affect long-term continuation of compatible agricultural uses within, or adjacent to, the marsh.

29408. The local protection program shall not preclude the continuation and expansion of existing nonagricultural uses on sites in Section 11 or 12 of Township 4 North, Range 1 West, Mount Diablo Baseline and Meridian, that were zoned for such uses as of January 1, 1977, and for the conduct of such uses so that they do not cause any substantial, adverse impact on the marsh. The local protection program shall also provide that any other use of these sites in the future shall be compatible with the preservation of the marsh and its wildlife resources.

29409. Notwithstanding the policies of the protection plan, the

local protection program may not preclude the future development of a new solid waste disposal site in the Potrero Hills if it can be demonstrated that the construction and operation of solid waste facilities at that site would not have significant, adverse ecological or aesthetic impacts on the marsh.

29409.5. The component of the local protection program prepared by the Solano County Local Agency Formation Commission shall conform to this division and the policies of the protection plan, which shall govern its decisions. That component of the local protection program shall be specifically designed to encourage continued long-term agricultural use of lands within and adjacent to the marsh and continued wildlife use of lands within the marsh.

Article 2. Procedure for Preparation and Certification of the Local Protection Program

29410. The local protection program, if it is otherwise consistent with the requirements of this division, may be submitted to the commission if both of the following requirements are met:

(a) It is submitted pursuant to a resolution adopted after at least one public hearing by each local government and district having jurisdiction in the marsh and the Solano County Local Agency Formation Commission stating the local protection program is intended to be carried out in a manner fully in conformity with this division.

(b) It contains materials sufficient for a thorough and complete review.

29411. The local protection program shall be prepared as follows:

(a) Not later than July 1, 1978, the Solano County Local Agency Formation Commission, and the Cities of Benicia, Fairfield, and Suisun City shall each submit to the county its proposed component of the local protection program.

(b) Not later than July 1, 1978, each district that issues permits, grants approvals for development, or conducts activities that do, or may, affect the marsh, shall also submit to the county its proposed component of the local protection program.

(c) If the county determines that the proposed component does not conform to the protection plan and the provisions of this division, the county shall advise the affected local government or district, or the Solano County Local Agency Formation Commission if affected, of the changes or additions necessary to bring the component into conformity.

(d) In reviewing proposed local protection program components, the county may request the assistance of the commission. Upon receiving such request, the commission shall provide as much advice, information, and staff assistance as is compatible with the commission's performance of its other responsibilities under state and federal law. On request, the commission shall seek the assistance

of the department and other appropriate state agencies.

(e) Any local government, district, or the Solano Local Agency Formation Commission may request the commission to prepare its component of the local protection program, or the county may request the commission to prepare the local protection program, if either such request is submitted to the commission, in writing, not later than March 1, 1978.

(f) During the preparation of the local protection program, local governments, districts, and the Solano County Local Agency Formation Commission shall afford reasonable opportunity for public participation and consultation with other agencies, including adequate public notice, review periods, workshops, and public hearings.

29412. (a) Not later than January 1, 1979, the county shall submit to the commission the local protection program, which shall include the county's component and all components prepared by other local governments, districts, and the Solano County Local Agency Formation Commission and which shall meet the requirements of Section 29410

(b) If by July 1, 1978, any local government, district, or the Solano County Local Agency Formation Commission fails to submit its component to the county, the county may submit the local protection program without such component, if the local protection program otherwise meets the requirements of Section 29410.

(c) If by January 1, 1979, the county fails to submit the local protection program to the commission, any local government, district, or the Solano County Local Agency Formation Commission may submit its component directly to the commission for consideration pursuant to the provisions of this division if such component otherwise meets the requirements of Section 29410.

(d) If by January 1, 1979, the county fails to submit to the commission a local protection program component that has been submitted to it by a local government, district, or the Solano County Local Agency Formation Commission, the affected local government or district, or the Solano County Local Agency Formation Commission if affected, may submit such component directly to the commission if such component otherwise meets the requirements of Section 29410.

29412.5. Notwithstanding Sections 29411 and 29412, the component of the local protection program prepared by the Suisun Resource Conservation District shall be submitted directly to the commission not later than January 1, 1979. Such component shall include a water management program for each managed wetland in private ownership within the primary management area and shall specify all necessary development related to such management. Such component shall be processed by the commission pursuant to Sections 29413, 29414, 29415, and 29416 with the remainder of the local protection program submitted by the county.

29413. (a) Not less than 15 days after submission of the local

protection program, or any component thereof, pursuant to Section 29412, the commission shall request comments on the program from the Department of Fish and Game, from the State Department of Health, from all local governments, and from such other governmental agencies and interested persons as the commission may determine would be of assistance in reviewing the proposed program. The department or any such agency or person shall provide its comments within 60 days of the commission's request, and failure to provide comments within such time shall be deemed to mean that the department or any such agency or person has no comments to make.

(b) In addition to its responsibilities under subdivision (a), the department shall specifically determine whether the component of the local protection program prepared by the Suisun Resource Conservation District is, in the opinion of the department, consistent with this division and the policies of the protection plan.

(c) The Director of Health shall specifically determine whether the component of the local protection program prepared by the Solano County Mosquito Abatement District is in conformity with the applicable provisions of the Health and Safety Code.

29414. After receipt of the comments requested under Section 29413, or the expiration of the 60-day time limit established in Section 29413, but in no event more than 90 days after receipt of the proposed local protection program, the commission shall hold a public hearing on the proposed program The commission shall give notice pursuant to Section 6066 of the Government Code, commencing not less than 30 days before any such hearing.

29415. (a) After the public hearing, the commission shall determine whether the proposed local protection program is in conformity with this division and the policies of the protection plan. The commission shall certify the local protection program, or any component thereof, if the commission finds that it in all respects meets the requirements of, and is in conformity with, this division and the policies of the protection plan Certification of the local protection program, or any component thereof, shall require the affirmative votes of a majority of the commission members. If, within 120 days of receipt of the local protection program, the commission has not voted on whether or not to certify it, it shall be deemed certified.

(b) The commission shall not certify the component of the local protection program, or any amendment thereto, prepared by the Suisun Resource Conservation District unless the department determines, in writing, pursuant to subdivision (b) of Section 29413, that such component or amendment is consistent with this division and the policies of the protection plan

(c) The commission shall not certify the component of the local protection program, or any amendment thereto, prepared by the Solano County Mosquito Abatement District unless the Director of Health has determined in writing, pursuant to subdivision (c) of

Section 29413, that such component is in conformity with the applicable provisions of the Health and Safety Code.

29416 If the commission fails to certify the proposed local protection program, the commission shall give written notice of its action, specifying the portions of the local protection program that are not in conformity with the provisions of this division and the protection plan, and shall return the proposed program to the county, which shall advise any affected local government or district, or the Solano County Local Agency Formation Commission if affected, of the commission's action.

29417. The county may revise and resubmit the local protection program to the commission in accordance with the provisions of this division. In the event the county declines to revise the local protection program and resubmit it to the commission, any local government, district, or the Solano County Local Agency Formation Commission may submit its component of the local protection program to the commission directly for approval in accordance with the provisions of this division

29418 (a) After certification by the commission, the local protection program, or any component thereof, may be amended by the appropriate local government or district, or the Solano County Local Agency Formation Commission if appropriate. Any such amendment shall meet, in all respects, the requirements of, and be in conformity with, this division and the policies of the protection plan.

(b) Any proposed amendment to the local protection program, or any component thereof, shall be submitted directly to the commission by the appropriate local government or district, or the Solano County Local Agency Formation Commission if appropriate. If the amendment would affect any area in the marsh, it shall be processed by the commission in accordance with the provisions of Sections 29413, 29414, 29415, and 29416.

(c) The commission shall establish, by regulation, a procedure whereby amendments proposed by a local government, district, or the Solano County Local Agency Formation Commission to the local protection program, or any component thereof, may be reviewed and designated by the executive director of the commission as being minor in nature. Proposed amendments designated as minor shall not be subject to the provisions of Sections 29412, 29413, 29414, 29415, and 29416 and shall take effect on the 10th working day after such designation. Amendments that allow changes in uses may not be designated as minor.

(d) For the purpose of this section an amendment of the local protection program, or any component thereof, includes, but is not limited to, any action by a local government, district, or the Solano County Local Agency Formation Commission that authorizes a use of a parcel of land other than that designated in the local protection program as a permitted use of such parcel.

29419 (a) The local protection program, any component

thereof, or any amendment, shall not take effect until it has been formally adopted by the responsible local government or district, or the Solano County Local Agency Formation Commission if responsible, and certified by the commission.

(b) Any amendment, or portion of any amendment, to the local protection program that would affect any area outside the marsh shall not be effective until the governing body of the local government or district has (1) held a public hearing on the proposed amendment, of which at least 30 days' notice has been given; (2) notified the commission and the county in writing of the nature and text of the proposed amendment at least 30 days prior to adoption, which notification shall be accompanied by a resolution adopted by the governing body stating that the amendment is consistent with this division and the policies of the protection plan; and (3) submitted the amendment as adopted to the commission and the county.

29420. (a) Upon request to the commission, the commission shall grant to the county an extension of the time limit provided in Section 29412 for submission to the commission of the local protection program, or of the time limit provided in Section 29411 for submission to the county of any local protection program component; provided, however, that no extension hereunder may authorize submission of the local protection program, or any component thereof, after January 1, 1980.

(b) The commission may extend, for a period not to exceed one year, any other time limitation established by this chapter for good cause.

29421. If on or before January 1, 1981, the local protection program is not certified, or if the local protection program as certified lacks a component from one or more local governments, the commission may take any of the following actions if it finds that, in the absence of the certified local protection program or component, (1) any new development in the marsh or in any area for which there is no local protection program component would be inconsistent with this division and the protection plan and (2) the development controls contained in Chapter 6 (commencing with Section 29500) are inadequate to ensure consistency with this division and the protection plan:

(a) Prohibit or otherwise restrict, by regulation, the affected local government from issuing any permit or any type of entitlement for use for any development within the marsh, or any portion thereof, within the jurisdiction of such local government.

(b) By regulation, extend the permit requirements of Chapter 6 (commencing with Section 29500) by requiring a permit from the commission for any development within any area of the marsh under the jurisdiction of the affected local government.

29422. (a) The commission shall, from time to time, but at least once every five years after certification, review the certified local protection program, and each component thereof, to determine

whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that the certified local protection program, or any component thereof, is not being carried out in conformity with this division or the protection plan, it shall submit to the affected local government or district, or the Solano County Local Agency Formation Commission if affected, recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the local protection program or any component thereof.

(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government or district, or the Solano County Local Agency Formation Commission if affected, and, if the recommended action is not taken, the local government, district, or the Solano County Local Agency Formation Commission shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy of this division.

29423. If the application of the certified local protection program, or any component or part thereof, is prohibited or enjoined by any court, any development that would otherwise be subject to such program, or any component or part thereof, shall by operation of law be subject to the provisions of Chapter 6 (commencing with Section 29500) relating to control of development prior to certification.

29424. Nothing in this chapter shall permit the commission to certify a local protection program, or any component thereof, which provides for a lesser degree of environmental protection than that provided by the plans and policies of any state regulatory agency.

Article 2.5. Agricultural Lands

29427. (a) Prior to certification of the county's component of the local protection program, the county shall designate the area of the county adjacent to the marsh that should be retained in agricultural use, or in uses that are compatible with agricultural use, in order to ensure the long-term agricultural use and productivity of agricultural lands within the marsh.

(b) Within such area the county shall do all of the following prior to certification of the county's component: (1) determine the minimum size parcels necessary for long-term agricultural use and productivity, (2) establish enforceable standards limiting or prohibiting land divisions or other types of development that are inconsistent with protection of the marsh and continued agricultural use, (3) establish enforceable standards precluding agricultural uses by type and intensity that are inconsistent with the long-term preservation of the marsh, and (4) limit special assessments against

agricultural lands for the provision of public services, the demand for which is not generated by agricultural uses on such lands

(c) No change by the county of any designation, standard, or limitation established pursuant to this section shall become effective until 30 days after it has notified the commission of the proposed change and unless it makes a specific finding that the change will not adversely affect, directly or indirectly, the long-term agricultural use and productivity of agricultural lands within the marsh.

Article 3 Preferential Assessment

29430. (a) Any person who owns land within the marsh that is being used for the purpose of agriculture or wildlife habitat on January 1, 1978, or that is used for such a purpose at any time after that date, may petition the local government having jurisdiction over the land to enter into a contract pursuant to the California Land Conservation Act of 1965 (Williamson Act) (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code) or a wildlife habitat contract, as defined in subdivision (f) of Section 421 of the Revenue and Taxation Code.

(b) Upon receipt of a petition pursuant to subdivision (a), such local government is authorized to, and shall, enter into such contract with the petitioning landowner

29431. Neither the acreage limitations contained in Section 51230 of the Government Code and subdivision (f) of Section 421 of the Revenue and Taxation Code, nor the requirements of Section 51242 of the Government Code, shall apply to any contract entered into pursuant to this article.

29432. Notwithstanding the provisions of subdivision (b) of Section 51243 of the Government Code, upon the annexation by a city of any land within the marsh that is under contract with the county, the city shall succeed to all rights, duties, and powers of the county under such contract and the contract shall remain effective for all purposes even if (1) the land being annexed was within one mile of such city at the time that the contract was entered into; (2) the city had filed, and the local agency formation commission had approved, a protest to the contract pursuant to Section 51234.5 of the Government Code; and (3) the city had stated its intent not to succeed in its resolution of intention to annex.

29433. (a) Notwithstanding Sections 51282, 51283, 51283.3, and 51285 of the Government Code, no contract with any person concerning land within the marsh and entered into by any local government pursuant to the California Land Conservation Act of 1965 (Williamson Act) (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code) or pursuant to subdivision (f) of Section 421 of the Revenue and Taxation Code may be canceled, nor shall a notice of nonrenewal of any such contract by any local government be effective, without the consent of the commission, if such contract was in effect on or after

September 27, 1974

(b) The commission may not consent to the cancellation or notice of nonrenewal of any such contract unless the commission finds that such cancellation or nonrenewal is consistent with the provisions of this division and the protection plan.

(c) Other than as expressly provided herein, this section does not affect the right of any person or local government relating to the renewal or nonrenewal of any such contract

CHAPTER 6. DEVELOPMENT CONTROLS

Article 1 General Provisions

29500. In addition to obtaining any other permit required by law from any local government or from a state, regional, or local agency, on and after January 1, 1978, any person wishing to perform or undertake any development in the marsh shall obtain a marsh development permit.

29501 (a) Within the primary management area, a marsh development permit required under Section 29500 shall be obtained from the commission and shall be in lieu of any other permit that may be required by law from the commission.

(b) The commission shall issue a marsh development permit under this section if it finds that the proposed development is consistent with either the provisions of this division and the policies of the protection plan or the certified local protection program, if any.

(c) Subsequent to certification of the local protection program, the commission may define and delegate by regulation to the local government having jurisdiction the commission's permit authority under this section over development that does not have significant impact on the marsh. Any local government to which the commission has delegated any part of its permit authority under this section shall issue a marsh development permit under this section if it finds the proposed development is consistent with the local protection program.

(d) Any action by a local government on an application for a marsh development permit under this section may be appealed to the commission pursuant to Section 29522 The commission, on appeal, shall issue the permit if it finds the proposed development that is the subject of the appeal is consistent with the local protection program.

(e) Any delegation by the commission of its permit authority under this section may be revoked at any time for good cause.

29501.5. Notwithstanding the provisions of Section 29500, within the primary management area no marsh development permit shall be required for any development specified in the component of the local protection program prepared by the Suisun Resource Conservation District and certified by the commission pursuant to

Section 29415

29502. (a) Except as provided in Section 29505, within the secondary management area, a marsh development permit required under Section 29500 shall be obtained from the local government having jurisdiction over the land in which the proposed development is to occur.

(b) The local government may incorporate the procedures for issuing marsh development permits into its procedures relating to the issuance of any other land use or development permit.

29503. (a) Prior to certification of the local protection program, a local government may issue a marsh development permit pursuant to Section 29502 only if it finds that the proposed development (1) is in conformity with this division and the policies of the protection plan and (2) will not prejudice the preparation of the local protection program.

(b) Subsequent to certification, a local government may issue a marsh development permit pursuant to Section 29502 only if it finds that the proposed development is consistent with the certified local protection program.

29504. (a) Any action taken by a local government on an application for a marsh development permit pursuant to subdivision (a) of Section 29503, except an action denying such an application, may be appealed to the commission

(b) Except as provided in subdivision (e) of this section, any action taken by a local government on an application for a marsh development permit pursuant to subdivision (b) of Section 29503 may be appealed to the commission.

(c) Prior to certification of the local protection program, the commission, on appeal, shall issue the marsh development permit only if it finds that the proposed development that is the subject of the appeal (1) is in conformity with this division and the policies of the protection plan and (2) will not prejudice the preparation of the local protection program.

(d) Subsequent to certification of the local protection program, the commission, on appeal, shall issue the marsh development permit only if it finds the proposed development that is the subject of the appeal is in conformity with the local protection program. However, this subdivision does not authorize the commission, on appeal, to consider any action by local government on a marsh development permit which is not appealable to the commission by virtue of the provisions of subdivision (e) of this section.

(e) The following actions of a local government on an application for a marsh development permit are not appealable to the commission under this section:

(1) Any action denying an application for a marsh development permit.

(2) Any action that consists of a finding that a development is a principal permitted use under a zoning ordinance or zoning district map that has been certified by the commission as part of the local

protection program and any action that authorizes such development to the extent, but only to the extent, such action is based on such finding.

29505 No person shall be required to obtain a marsh development permit from local government for any development on tidelands, submerged lands, or other public trust lands, whether filled or unfilled, or for any development by a public agency for which a local government permit is not otherwise required, but in such a case, a marsh development permit shall be obtained from the commission The commission shall issue a marsh development permit pursuant to this section if the commission finds that the proposed development is consistent with either this division and the policies of the protection plan or the certified local protection program, if any.

29506. Any permit that is issued or any development or action that is approved on appeal pursuant to this division shall be subject to such reasonable terms and conditions as the commission determines will ensure that such development or action will be in accordance with the provisions of this division and the protection plan.

29507. (a) No person who has obtained a vested right in a development prior to January 1, 1978, or who has obtained a valid permit for development from the commission pursuant to Title 7 2 (commencing with Section 66600) of the Government Code or from the commission or any local government pursuant to former Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code shall be required to secure a permit for the development pursuant to this division However, no substantial change may be made in any such development or with respect to the activity authorized by such a permit without prior approval having been obtained under this division.

(b) Any person who claims a vested right in a development and thereby an exemption from the requirements of this division shall, on or before January 1, 1979, notify the commission in writing by filing a claim of exemption with the commission. If any person does not file a claim of exemption on or before that date the development of such person shall be subject to the approval requirements of this division.

(c) The commission shall establish, by regulation, procedures, including public hearings, for determining claims of exemption and may require documentation or other competent evidence, including declarations under penalty of perjury or affidavits, to support any such claim

(d) The commission shall take reasonable steps to notify persons of the provisions of this section, but the fact that any person did not receive such notice shall not extend the period within which a claim of exemption must be filed under this section

29508. Notwithstanding any provision of this division to the contrary, no marsh development permit shall be required pursuant

to this chapter for the following types of development and in the following areas:

(a) Improvement to existing single-family residences

(b) Repair, replacement, reconstruction, or maintenance that does not result in an addition to, or enlargement or expansion of, the object of such repair, replacement, reconstruction, or maintenance. However, if the commission determines that certain types of repair, replacement, reconstruction, or maintenance activities involve a risk of substantial adverse environmental impact, it shall require, by regulation, that a permit be obtained under this chapter.

(c) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any other development for which a marsh development permit is required and has been issued pursuant to this division. However, the commission may, whenever it deems necessary, require, as a condition to the issuance of such a permit, reasonable measures for the mitigation of any adverse impacts on marsh resources, including scenic resources

(d) Any category of development, or any category of development within a specifically defined geographic area, that the commission, by regulation, after public hearings, and by a two-thirds vote of its members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on the resources of the marsh and that such exclusion will not impair the ability of any local government or district or the Solano County Local Agency Formation Commission to prepare its component of the local protection program.

29509. (a) When immediate action by a person performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, levees, dikes, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency, no permit from the commission shall be required prior to commencing such action if within three days of the disaster or the discovery of the danger, whichever occurs first, the person performing such action notifies the executive director of the commission of the type and location of the work undertaken pursuant to such action. Upon such notification, the executive director of the commission may waive the requirements for a permit or other authorization for such work. However, this section does not authorize the permanent erection of structures valued at more than twenty-five thousand dollars ($25 000).

(b) The commission shall provide, by regulation, for the issuance of marsh development permits by the executive director of the commission, without compliance with the procedures specified in this chapter, in cases of emergency, other than an emergency as provided in subdivision (a) of this section, or for minor repairs or improvements.

29510. Not later than two years following certification of the local protection program, the commission shall report to the Legislature regarding the operation of the appellate procedure in the secondary management area, as provided in subdivision (b) of Section 29504. Not less than 60 days prior to the date on which the report is required to be submitted to the Legislature, the report shall be made available, for review and comment, to each local government having jurisdiction within the marsh. Not later than 30 days prior to the date on which the report is required to be submitted to the Legislature, any comments by a local government shall be submitted to the commission. Each such comment shall be included in the commission's report, together with the commission's response thereto.

Article 2 Development Control Procedures

29520 (a) Except as expressly provided in this division, the commission shall use the procedures set forth in Title 7.2 (commencing with Section 66600) of the Government Code for the submission, review, and issuance by the commission of marsh development permits and claims of exemption

(b) The commission or any local government may require a reasonable filing fee and the reimbursement of expenses for the processing by the commission or the local government of any application by any person for a marsh development permit under this division. The funds received under this subdivision shall be deposited in the General Fund and shall be available for expenditure by the commission only when appropriated by the Legislature therefor.

29521 Not later than March 1, 1978, the commission shall adopt procedures for the submission, review, and appeal of applications for marsh development permits to be issued by local government. Such procedures shall include reasonable provisions for notification to the commission and other interested persons of any action by a local government pursuant to this division in sufficient detail to assure that a preliminary review of such action for conformity with the provisions of this division can be made.

29522. (a) Any appealable action on a marsh development permit for any development by a local government may be appealed to the commission by any aggrieved person or by any two members of the commission Such action shall become final after the 20th working day after receipt of the notice required by Section 29521, unless an appeal is filed within that time.

(b) If an appeal of any action on a development by any local government is filed with the commission, the operation and effect of such action shall be stayed pending the commission's decision on the appeal

29523 The commission shall hear an appeal unless it determines that the appeal raises no substantial issue as to the conformity of the

proposed development with the provisions of this division, the local protection program, if in existence, and the policies of the protection plan.

29524. (a) The commission shall provide for a public hearing de novo on any appeal brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notice. A hearing on any appeal shall be set not earlier than 21 days nor later than 42 days after the date on which the appeal is filed with the commission.

(b) The commission shall act upon an appeal within 21 days after the conclusion of the hearing pursuant to subdivision (a) and may approve, modify, or deny the application for the proposed development; and if no action is taken within the time limits specified in this subdivision and subdivision (a), the decision of the local government shall become final.

(c) Thirteen affirmative votes of members of the commission, or of the commission hearing an appeal, are required to grant a permit. Neither of the federal representatives who are members of the commission may vote on whether or not a permit shall be granted.

(d) The applicant for a marsh development permit may waive any time limits prescribed in this section.

CHAPTER 7. JUDICIAL REVIEW, ENFORCEMENT, AND PENALTIES

Article 1. General Provisions

29600. The provisions of this chapter shall be in addition to any other remedies available pursuant to law.

29601. The provisions of Chapter 4 (commencing with Section 66630) of Title 7.2 of the Government Code relating to cease and desist orders and penalties for violations thereof shall apply to all development for which a marsh development permit from the commission, or the commission hearing an appeal, may be required under this division.

29602. Any aggrieved person may seek judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 60 days after such decision or action has become final.

29603. Any aggrieved person, including an applicant for a marsh development permit, or the commission, may seek judicial review of any decision made or any action taken pursuant to this division by a local government that is implementing the certified local protection program, or any component thereof, whether or not such decision or action has been appealed to the commission, by filing a petition for writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 60 days after the

decision or action has become final. The commission may intervene in any such proceeding upon a showing that the matter involves a question of the conformity of a proposed development with the certified local protection program, or any component thereof, or the validity of any action taken by a local government to implement or amend the local protection program, or any component thereof. Any local government may request that the commission intervene. Notice of any such action against a local government shall be filed with the commission within five working days of the filing of such action. When an action is brought challenging the validity of the local protection program, or any component thereof or any amendment thereto, a preliminary showing shall be made prior to proceeding on the merits as to why such action should not have been brought pursuant to the provisions of Section 29602.

29604. Any person may maintain an action to enforce the duties specifically imposed upon the commission, any governmental agency, any district, or any local government by this division. No bond shall be required for an action under this section.

29605 Any person may maintain an action for the recovery of civil penalties provided in Section 29610 or 29611. Any penalties so recovered shall inure to the state and shall be deposited in the General Fund. However, the person recovering such penalties shall be entitled to reimbursement for reasonable attorney's fees out of the penalties so recovered.

29606 Any civil action under this division by or against a city or county, the commission, a district, or any other public agency shall, upon motion of either party, be transferred to a county or city and county not a party to the action or to a county or city and county other than that in which the city, district, or other public agency which is a party to the action is located

Article 2 Penalties

29610 (a) Any person who intentionally or negligently violates any provision of this division shall be subject to a civil fine of not to exceed five thousand dollars ($5,000)

(b) In addition to any other penalties, any person who intentionally and knowingly commences any development in violation of this division shall be subject to a civil fine of not less than fifty dollars ($50) and no more than five thousand dollars ($5,000) per day for each day in which such violation occurs

(c) If any person negligently or intentionally violates a cease and desist order issued pursuant to Section 29601, then the penalties provided in subdivisions (a) and (b) of this section shall not apply and the penalties provided in Section 66641 of the Government Code shall apply.

29611. Except as provided in Section 818 of the Government Code, whenever a person has intentionally and knowingly violated any provision of this division, the commission may maintain an

action, in addition to an action under Section 29610, for the recovery of exemplary damages. In determining the amount to be awarded, the court shall consider the amount of such damages necessary to deter further violations.

29612. Any moneys recovered by the commission under this article shall be deposited in the General Fund and shall be available for expenditure by the commission for carrying out the provisions of this division, when appropriated by the Legislature therefor.

SEC. 14. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. Such restrictions shall include, but are not limited to: (a) zoning; (b) recorded contracts with governmental agencies other than those provided in Section 422; (c) permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency; (d) development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, (e) development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code; and (f) environmental constraints applied to the use of land pursuant to provisions of statutes.

There shall be a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction

nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable land which are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

For the purposes of this section:

(a) "Comparable lands" are lands which are similar to the land being valued in respect to legally permissible uses and physical attributes

(b) "Representative sales information" is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of such land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 of the Revenue and Taxation Code is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land which legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. Nothing in this statute shall be construed as requiring the assessment of any land at a value less than as required by Section 401 of this code or as prohibiting the use of representative comparable sales information on land under similar restrictions when such information is available.

SEC. 14.5. Section 10 15 of the Budget Act of 1977 (Ch. 219, Stats. 1977) is amended to read·

Sec 10.15 (a) As of June 30, 1977, the unencumbered balance of the appropriation made by Section 2 of Chapter 123 of the Statutes of 1975 shall revert to the General Fund

(b) As of July 1, 1977, the amount that reverted pursuant to subdivision (a) is hereby appropriated from the General Fund to the Wildlife Conservation Board for expenditure during the 1977–78 fiscal year for the acquisition of lands and water and the construction of suitable facilities thereon. Such acquisition and construction shall be made for the purposes of Section 1880, and in accordance with the provisions of Section 1881, of the Fish and Game Code until such date as Assembly Bill No 1717 of the 1977–78 Regular Session of the Legislature becomes operative, and on and after such date such acquisition and construction shall be made pursuant to Section 29305 of the Public Resources Code.

SEC 15. There is no appropriation made by this act for the 1977–78 fiscal year pursuant to Section 2231 of the Revenue and Taxation Code. However, the Legislature acknowledges that there may be direct planning and administrative costs in the 1977–78 fiscal year that are costs mandated by the state, as defined in Section 2207

of the Revenue and Taxation Code, as a result of the enactment of this act, but finds that such costs are indeterminable at this time. It is the intent of the Legislature that such costs incurred by local government shall be reimbursed by the state. If such costs do result from the enactment of this act or from executive orders issued pursuant to this act in the 1977–78 or subsequent fiscal years, reimbursement shall be provided pursuant to Section 2231 of the Revenue and Taxation Code in the annual state budget process; except, that claims for such costs which may be incurred in the 1977–78 fiscal year shall be submitted to the State Controller by October 31, 1978.

If the Legislature does not provide full funds for state-mandated local costs that are approved by the State Controller as costs qualified for reimbursement under Section 2231 of the Revenue and Taxation Code in the annual state budget process or in special legislation during the 1977–78 and each subsequent fiscal year in which such costs have been so approved, the dates specified for the submission of the local protection program, the implementation of a local protection program, and the performance of any other duty required of local government to be performed after the enactment of Division 19 (commencing with Section 29000) of the Public Resources Code, shall be postponed by the number of years elapsing between the date the local protection program, implementing act, or duty is to be performed and the year in which such funds are provided.

It is the policy of the state that 20 percent of the funds, but in no event more than one hundred thousand dollars ($100,000), received by the San Francisco Bay Conservation and Development Commission in any year from the federal government after January 1, 1978, pursuant to the Coastal Zone Management Act of 1972 (P.L. 92-583; 16 U.S.C. 1451, et seq.), shall be used for the development and implementation of the local protection program, as defined in Section 29111 of the Public Resources Code.

Funds appropriated by the Legislature for the purpose of, and pursuant to, this section, together with any federal funds available for such purposes, shall be disbursed in the manner provided herein. The San Francisco Bay Conservation and Development Commission shall review and analyze all claims submitted for payment pursuant to this section and shall submit to the State Controller its recommendation. The State Controller shall consider the report of the commission and review claims submitted by any local government pursuant to this section to determine whether such claimed planning and administration costs are directly attributable to the implementation of this act. Any such claimed costs found to be directly attributable to the implementation of this act shall be charged against and paid from such funds when appropriated by the Legislature.

SEC. 15.5. The Legislature acknowledges that the increased public use of the Suisun Marsh as a resource of statewide importance might place demands on local services, such as fire and police

protection and highway maintenance, that might be greater than would be the case without the enactment of this act, thereby possibly causing greater costs to be incurred by local government and necessitating higher taxes. The amount of such costs, if any, is not ascertainable at this time. It is the intent of the Legislature to observe this situation and to determine, at the appropriate time, whether such costs should be reimbursed by the state.

SEC. 16. The Suisun Marsh, the primary management area, and the secondary management area, as generally defined in Sections 29101, 29102, and 29103, of the Public Resources Code, are the land and water areas so designated on the map prepared by the San Francisco Bay Conservation and Development Commission, titled "Boundaries of the Suisun Marsh," and on file with the Secretary of State.

CHAPTER 1156

An act to amend Section 23701r of, to add Section 17148 to, the Revenue and Taxation Code, and to add Section 1265.7 to the Unemployment Insurance Code, relating to income exemptions, to take effect immediately, tax levy.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 17148 is added to the Revenue and Taxation Code, to read:

17148. Gross income does not include payments for severance pay or terminal pay to an individual who is terminated from his or her employment as a direct result of the expansion of a federal redwood park in northern California by reason of legislation enacted by Congress in 1977 or 1978

SEC. 2. Section 23701r of the Revenue and Taxation Code, as added by Chapter 865 of the Statutes of 1976, is amended to read:

23701r. (a) A political organization. However, a political organization shall be subject to tax under this part with respect to its "political organization taxable income" and such income shall be subject to tax as provided by Chapter 3 (commencing with Section 23501) of this part.

(b) For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess over one hundred dollars ($100) (if any) of—

(1) The gross income for the taxable year (excluding any exempt function income), over

(2) The deductions allowed by this part which are directly connected with the production of the gross income (excluding

exempt function income).

(c) For purposes of this section, the term "exempt function income" means any amount received as—

(1) A contribution of money or other property,

(2) Membership dues, a membership fee or assessment from a member of the political organization, or

(3) Proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business,

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) For purposes of this part, if any political organization—

(1) Contributes any amount to or for the use of any political organization which is treated as exempt from tax under subdivision (a) of this section

(2) Contributes any amount to or for the use of any organization described in paragraph (1) or (2) of Section 509(a) of the Internal Revenue Code of 1954, which is exempt from tax under Section 23701, or

(3) Deposits any amount in the General Fund of the Treasury of the United States or in the General Fund of any state or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person No deduction shall be allowed under this part for the contribution or deposit of any amount described in the preceding sentence.

(e) For purposes of this section—

(1) The term "political organization" means a party, committee, association, fund, (including the trust of an individual candidate) or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

(3) The term "contributions" has the meaning given to such term by paragraph (2) of subdivision (b) of Section 24434.

(4) The term "expenditures" has the meaning given to such term by paragraph (3) of subdivision (b) of Section 24434.

(f) For purposes of paragraph (1) of subdivision (e), a separate segregated fund (within the meaning of Section 610 of Title 18 of the United States Code or of any similar state statute, or within the meaning of any state statute which permits the segregation of dues money for exempt functions, within the meaning of paragraph (2)

of subdivision (e)) which is maintained by an organization described in Sections 23701a through 23701p or Section 23701s which is exempt from tax under Section 23701 shall be treated as a separate organization.

(g) (1) For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of Section 41(c)(2) of the Internal Revenue Code) for nomination or election to, any federal, state, or local elective public office for use by such individual exclusively for the preparation and circulation of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) In the case of any fund described in paragraph (1) the exempt function shall be only the preparation and circulation of the newsletter

(h) The requirements set forth in subdivisions (a), (b) and (c) of Section 23701 shall not apply to a political organization or newsletter fund described in this section However, in the case of a corporation incorporated or organized in this state or qualified to do business in this state, such corporation shall either pay the minimum tax provided in Section 23153 or obtain a certificate of exemption from the Franchise Tax Board before the corporation files with the Secretary of State its articles of incorporation or a duly certified copy thereof.

(i) The requirements set forth in Section 23772 or Section 23774 shall not apply to a political organization or newsletter fund. Further, the requirements set forth in Sections 18405, 18405.1 and 25401 shall not apply to a political organization or newsletter fund described in this section, except that if it has political organization taxable income for any taxable year, the political organization shall be required to file income tax returns or statements as determined by the Franchise Tax Board under Chapter 3 of this part.

SEC. 3. Section 1265.7 is added to the Unemployment Insurance Code, to read:

1265.7. Notwithstanding any other provision of this division, payments for severance pay or terminal pay to an individual who is terminated from his or her employment as a direct result of the expansion of a federal redwood park in northern California by reason of legislation enacted by Congress in 1977 or 1978, shall not be construed to be wages or compensation for personal services under this division, and benefits payable under this division shall not be denied or reduced because of the receipt of such payment.

SEC. 4. It is the intent of the Legislature to memorialize Congress to provide similar federal income tax treatment for amounts received as severance pay or terminal pay as described in this act.

SEC. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given

effect without the invalid provision or application, and to this end the provisions of this act are severable

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect

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CHAPTER 1157

An act to add Section 1776 to the Welfare and Institutions Code, relating to the Youth Authority, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 1776 is added to the Welfare and Institutions Code, to read:

1776 Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Youth Authority as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the Youth Authority and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose juvenile hall or jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 509.5 of this code.

SEC. 2. The sum of seventy-three thousand dollars ($73,000), or as much thereof as may be necessary, is hereby appropriated from the General Fund to the Department of the Youth Authority for reimbursement to counties for costs incurred by them pursuant to Section 1776 of the Welfare and Institutions Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Counties are currently required to divert a portion of their tax-base funds available to support local jail and juvenile hall

operations to underwrite the costs of detaining Department of the Youth Authority parolees who have violated parole conditions. In order that the financial burden be transferred to the proper governmental entity as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 1158

An act to add Article 9 (commencing with Section 3460) to Chapter 1 of Division 3 of the Public Resources Code, relating to recycling of oil, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Article 9 (commencing with Section 3460) is added to Chapter 1 of Division 3 of the Public Resources Code, to read:

Article 9. Used Oil Recycling Act

3460. As used in this article:

(a) "Used oil" means a petroleum based oil which, after sale to a consumer, through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties and is suitable for recycling.

(b) "Recycle" means to prepare used oil for reuse as a petroleum product by refining, rerefining, reclaiming, reprocessing, or other means, or to use used oil in a manner that substitutes for a petroleum product made from new oil

(c) "Board" means the State Solid Waste Management Board as defined by Section 66740 of the Government Code.

(d) "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

3462 The Legislature finds that almost 100 million gallons of used automotive and industrial oil are generated each year in the state; that used oil is a valuable petroleum resource which can be recycled; and that, in spite of this potential for recycling, significant quantities of used oil are wastefully disposed of or improperly used by means which pollute the water, land, and air and endanger the public health and welfare.

3463. It is the intent of the Legislature in enacting this article that used oil shall be collected and recycled to the maximum extent possible, by means which are economically feasible and environmentally sound, in order to conserve irreplaceable

petroleum resources, preserve and enhance the quality of natural and human environments, and protect public health and welfare.

3464. (a) No person shall collect, transport, transfer, store, recycle, use, or dispose of used oil in violation of any provision of this article or any rule or regulation adopted pursuant thereto

(b) Disposal of used oil by discharge to sewers, drainage systems, surface or ground waters, watercourses, or marine waters, or by incineration or deposit on land is prohibited, unless authorized under other provisions of law.

"Disposal," as used in this subdivision, shall not include the application of used oil to roads for maintenance purposes or the use of used oil as a fuel, or the use of used oil for agricultural dust control or the use of used oil for weed abatement on the user's property.

3465. The board shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil in order to conserve resources and preserve the environment. As part of this program, the board shall:

(a) Adopt rules, in accordance with subdivision (a) of Section 3470, requiring any person who sells to a consumer more than 500 gallons of lubricating or other oil annually in containers for use off the premises to inform purchasers by posting at or near the point of purchase the locations of conveniently located collection facilities.

Such rules shall provide that in a county wherein 5 percent or more of the population, as determined in accordance with the latest Bureau of the Census information, speak a specific primary language other than English, the signs shall be in such other language, as well as English.

(b) Establish, maintain, and publicize a used oil information center that shall explain local, state, and federal laws and regulations governing used oil and inform holders of quantities of used oil on how and where used oil may be properly disposed.

(c) Encourage the establishment of voluntary used oil collection and recycling programs and provide technical assistance and, whenever possible, financial assistance, to persons organizing such programs.

(d) Encourage the procurement of rerefined automotive and industrial oils for all state and local uses, whenever such rerefined oils are available at prices competitive with those of new oil produced for the same purpose.

3466. The board shall by rule adopted in accordance with subdivision (a) of Section 3470 prescribe means for the provision of safe and conveniently located collection facilities for the deposit of used oil by persons possessing not more than five gallons at one time at no cost to those persons.

3467. (a) No person, except a person collecting solely from sources owned and operated by the person, shall transport more than 500 gallons of used oil annually over public highways or maintain any storage facility that receives more than 10,000 gallons of used oil annually without first registering as a used oil collector with the

board.

(b) A registered used oil collector shall transfer used oil only to another registered used oil collector, a recycler registered under Section 3468, or a person outside the state.

(c) A registered used oil collector shall provide a receipt to any person to whom used oil is transferred; maintain a complete record of all such transactions, documented by reproducible receipts, for two years; and make available to the board, upon request, all records and copies of receipts for the purpose of review and audit.

(d) A registered used oil collector shall submit an annual report to the board on its activities during the calendar year based on the records kept in accordance with subdivision (c). The report shall state the quantities of used oil possessed at the beginning and end of the reporting period, the total amount collected, and the amounts transferred during the reporting period. The amounts transferred shall be itemized as to used oil collectors, used oil recyclers, and by the state or foreign country for those persons outside the state

3468. (a) No person, except a person recycling solely from sources owned and operated by the person, shall recycle more than 5,000 gallons of used oil annually without first registering as a used oil recycler with the board.

(b) A registered used oil recycler shall provide a receipt to any person from whom used oil is received; maintain a complete record of all such transactions, documented by reproducible receipts, for two years; maintain records on the quantities of used oil recycled; and make available to the board, upon request, all records and copies of receipts for the purpose of review and audit.

(c) A registered used oil recycler shall submit an annual report to the board on its activities during the calendar year based upon the records kept in accordance with subdivision (b). The report shall state the quantities of used oil possessed at the beginning and end of the reporting period, the total amount received, and the amounts recycled during the reporting period. The amounts recycled shall be itemized as follows: prepared for reuse as a petroleum product; consumed in the process of preparing for reuse, including wastes generated; and other uses, specifying each type of use

3469. The board, and every state officer and employee, shall encourage the purchase of recycled oil products represented as substantially equivalent to products made from new oil in accordance with Section 3471.

3470. (a) All rules and regulations of the board shall be adopted, amended, and repealed in accordance with the provisions of The Administrative Procedure Act (Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) The board shall adopt rules in accordance with subdivision (a) governing contents of and fees for applications for registrations under this article and procedures for review of applications and for approval, renewal, denial, and revocation of registrations. These

rules shall provide for joint registrations for persons requiring more than one authorization under this article or other provisions administered by the board. The board shall also adopt rules prescribing provision of receipts, the keeping of records, and the filing of reports by registrants

(c) The board shall register an applicant if it determines that the proposed means for collection, transport, transfer, storage, recycling, use, or disposal is operationally safe, environmentally sound, and consistent with the provisions of this article and shall impose terms in connection with the registration requiring the registration holder to install or effect controls, processes, or practices necessary to insure continuous compliance with existing laws and regulations. A registration shall be valid until revoked.

(d) The board shall coordinate activities and functions with all other state agencies, including but not limited to, the State Department of Health, the Department of Water Resources, and the State Water Resources Control Board, in order to avoid duplication in reporting and information gathering.

(e) The board shall prepare and submit an annual report to the Legislature, based in part on information submitted in accordance with Sections 3467, 3468, and 3469, summarizing information on used oil collection and recycling and registrations, analyzing the effectiveness of the provisions of this article in implementing the policies prescribed in Section 3463, and making recommendations for necessary changes in the provisions or their administration.

(f) The board shall fully implement the provisions of this article as soon as practical, but in no event later than January 1, 1979.

3471. A person may represent any product made in whole or in part from used oil to be substantially equivalent to a product made from new oil for a particular end use if substantial equivalency has been determined in accordance with rules prescribed by the Federal Trade Commission under Section 383(d)(1)(A) of the Energy Policy and Conservation Act (P.L. 94-163) or if the product conforms fully with the specifications applicable to that product made from new oil. Otherwise, the product shall be represented as made from previously used oil.

3472. (a) The board shall enforce compliance with the provisions of this article and with the terms of registrations pursuant to this article.

(b) The board is authorized to employ any of the following means of civil enforcement: inspection of the operations of a registrant; issuance of an administrative order directing specified actions in accordance with a specified schedule; revocation of a registration, after providing an opportunity for a hearing; and a civil action seeking equitable relief or the civil penalties provided for in subdivision (c), or both.

(c) Any person who in the course of business violates any provision of this article or rule or regulation of the board promulgated pursuant thereto, in addition to any penalty provided by law, shall

be subject to a civil penalty of not more than one thousand dollars ($1,000) for each such violation. Any other person who violates any provision of this article or rule or regulation on the board promulgated pursuant thereto, in addition to any penalty provided by law, shall be subject to a civil penalty of not more than one hundred dollars ($100) for each such violation. For purposes of this section, each day of a continuing violation shall be deemed a separate and distinct violation

When establishing the amount of civil liability pursuant to this subdivision, the court shall consider, in addition to other relevant circumstances, the following:

(1) The extent of the harm caused by the violation or deposit.

(2) The persistence of the violation or deposit

(3) The number of prior violations by the same violator.

(4) The deterrent value of the penalty based on the financial resources of the violator

3473. If any provision of this article or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable

SEC. 2 The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Solid Waste Management Board for expenditure, without regard to fiscal years, for the purposes of Article 9 (commencing with Section 3460) of Chapter 1 of Division 3 of the Public Resources Code.

CHAPTER 1159

An act to amend Sections 1156, 1156.1, 1156.2, 3526, 3540.1, 3541, and 18850 of, to add Chapter 10.3 (commencing with Section 3512) to Division 4 of Title 1 of, and to repeal Sections 18850.2 and 18850 3 of, the Government Code, relating to state employment relations

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of this code.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association, other than an employee organization as defined in subdivision (a) of Section 3513, if the association, or the unit thereof, is comprised principally of employees and former employees of agencies of the State of California

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

SEC. 2. Section 1156.1 of the Government Code is amended to read:

1156.1. For those state officers and employees under the uniform payroll system, the State Controller shall provide for the administration of payroll deductions for purposes set forth in Section 1156. For all other state officers and employees and for persons receiving allowances or benefits under other state retirement systems, the appropriate state officer shall provide for such administration. The Controller and the other appropriate officers shall in administering payroll deductions:

(a) Provide for determination of the additional cost involved in making deductions under subdivisions (c), (d), (f), and (h) of Section 1156 and for the collection of such costs from the organization receiving the deductions. The amounts collected shall be deposited in the General Fund by the State Controller, or in another appropriate fund by the other officer or board.

(b) Provide for an agreement from organizations receiving deductions to relieve the state, its officers and employees of any liability that may result from authorizations made under Section 1156.

(c) Obtain confirmation of Board of Control approval of deductions under subdivision (f) of Section 1156 and provide for cancellation of such deductions in the absence of continuing adherence to standards prescribed for Board of Control approval.

(d) Decline to make deductions when it is determined that it would not be administratively feasible or practical to make such deductions.

SEC. 3. Section 1156.2 of the Government Code is amended to read:

1156.2. The Board of Control shall approve deductions under subdivision (f) of Section 1156 and such approval shall remain in effect provided that such deductions meet the following standards:

(a) The sponsoring employee organization meets the definition of subdivision (a) of Section 3513

(b) The program is available only to members of the sponsoring employee organization.

(c) Within one year the program has 500 or more participating state employees and participation to that extent continues

(d) The program is not restricted to a geographic area of the state.

(e) Any insurance program has been approved as being legal and meets all of the regulations promulgated by the Insurance Commissioner

(f) Any health care service plan has been registered with the Attorney General pursuant to the provisions of Section 12538.

(g) The provisions of subdivision (c) shall not apply to premiums on any insurance policy or payment for any other benefit program which insurance or benefit program is furnished the member as a result of a collective bargaining agreement

SEC 4 Chapter 10.3 (commencing with Section 3512) is added to Division 4 of Title 1 of the Government Code, to read:

CHAPTER 10.3. STATE EMPLOYER-EMPLOYEE RELATIONS

3512. It is the purpose of this chapter to promote full communication between the state and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the state and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employee-employer relations within the State of California by providing a uniform basis for recognizing the right of state employees to join organizations of their own choosing and be represented by such organizations in their employment relations with the state.

Nothing in this chapter shall be construed to contravene the spirit or intent of the merit principle in state employment

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing such employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, those state employees regularly working outside of the state, and employees of the California Maritime Academy.

(d) "Mediation" means effort by an impartial third party to assist

in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's office.

3514. Any person who shall willfully resist, prevent, impede or interfere with any member of the board, or any of its agents, in the performance of duties pursuant to this chapter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars ($1,000).

3514.5. The initial determination as to whether the charges of unfair practices are justified, and, if so, what remedy is necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. Procedures for investigating, hearing, and deciding these cases shall be devised and promulgated by the board and shall include all of the following:

(a) Any employee, employee organization, or employer shall have the right to file an unfair practice charge, except that the board shall not do either of the following: (1) issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge; (2) issue a complaint against conduct also prohibited by the provisions of the agreement between the parties until the grievance machinery of the agreement,

if it exists and covers the matter at issue, has been exhausted, either by settlement or binding arbitration. However, when the charging party demonstrates that resort to contract grievance procedure would be futile, exhaustion shall not be necessary. The board shall have discretionary jurisdiction to review such settlement or arbitration award reached pursuant to the grievance machinery solely for the purpose of determining whether it is repugnant to the purposes of this chapter. If the board finds that such settlement or arbitration award is repugnant to the purposes of this chapter, it shall issue a complaint on the basis of a timely filed charge, and hear and decide the case on the merits; otherwise, it shall dismiss the charge The board shall, in determining whether the charge was timely filed, consider the six-month limitation set forth in this subdivision to have been tolled during the time it took the charging party to exhaust the grievance machinery

(b) The board shall not have authority to enforce agreements between the parties, and shall not issue a complaint on any charge based of alleged violation of such a agreement that would not also constitute an unfair practice under this chapter

(c) The board shall have the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

3515. Except as otherwise provided by the Legislature, state employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. State employees also shall have the right to refuse to join or participate in the activities of employee organizations, except that nothing shall preclude the parties from agreeing to a maintenance of membership provision, as defined in subdivision (h) of Section 3513, pursuant to a memorandum of understanding In any event, state employees shall have the right to represent themselves individually in their employment relations with the public agency

3515.5. Employee organizations shall have the right to represent their members in their employment relations with the state, except that once an employee organization is recognized as the exclusive representative of an appropriate unit, the recognized employee organization is the only organization that may represent that unit in employment relations with the state. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the state.

3515.6. All employee organizations shall have the right to have membership dues, initiation fees, insurance premiums, and general assessments deducted pursuant to Sections 1156, 1156.1, and 1156.2

until such time as an employee organization is recognized or certified as the exclusive representative for employees in an appropriate unit, and then such deductions as to any employee in the negotiating unit shall not be permissible except to the exclusive representative.

3516 The scope of representation shall be limited to wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

3516.5 Except in cases of emergency as provided in this section, the state, its agencies, departments, commissions, or boards, or its representatives as may be properly designated by law, shall give reasonable written notice to each recognized employee organization affected by any law, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the state or its agencies, departments, commissions, or boards, and shall give such recognized employee organizations the opportunity to meet and confer with the administrative officials or their delegated representatives as may be properly designated by law.

In cases of emergency when the state or its agencies, departments, commissions, or boards determine that a law, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the administrative officials or their delegated representatives as may be properly designated by law shall provide such notice and opportunity to meet and confer at the earliest practical time following the adoption of such law, rule, resolution, or regulation.

3517. The Governor, or his representative as may be properly designated by law, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action

"Meet and confer in good faith" means that the Governor or such representatives as the Governor may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the state of its final budget for the ensuing year. The process should include adequate time for the resolution of impasses

3517.5. If agreement is reached between the Governor and the recognized employee organization, they shall jointly prepare a written memorandum of such understanding which shall be presented, when appropriate, to the Legislature for determination.

3517 6 In any case where the provisions of subdivision (h) of Section 3513, or Sections 1156, 1156.1, 1156 2, 13920, 13924, 14876, 18001, 18005, 18005.5, 18006, 18007, 18020, 18021, 18021.5, 18021 6, 18021 7, 18022, 18023, 18024, 18025, 18025.1, 18026, 18050, 18051, 18051.5, 18100, 18100.5, 18101, 18101.5, 18102, 18102.5, 18103, 18105, 18120, 18121, 18122, 18122.1, 18123, 18124, 18125, 18126, 18127, 18128, 18129, 18135, 18135.5, 18136, 18137, 18137 5, 18138, 18139, 18140, 18141, 18142, 18300, 18301, 18302, 18310, 18705, 18714, 18730, 18731, 18732, 18850, 18850.1, 18851, 18852, 18853, 18853 5, 18854, 18855, 18856, 18857, 18859, 18860, 18861, 19080.5, 19083, 19100, 19120, 19251, 19252, 19253.5, 19261, 19300, 19301, 19302, 19303, 19304, 19330, 19330.5, 19331, 19332, 19333, 19334, 19335, 19360, 19360.5, 19361, 19362, 19369, 19450, 19451, 19452, 19455, 19460, 19461, 19462, 19463, 19464, 19465, 19502, 19503, 19532, 19533, 19535, 19536, 19536.5, 19537, 19538, 19540, 19541, 19555, 19556, 20750.11, 21400, 21402, 21404, 21405, 22754, 22790, 22813, 22814, 22815, 22816, 22825, or 22825 1 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.

3518. If after a reasonable period of time, the Governor and the recognized employee organization fail to reach agreement, the Governor and the recognized employee organization may agree upon the appointment of a mediator mutually agreeable to the parties, or either party may request the board to appoint a mediator. When both parties mutually agree upon a mediator, costs of mediation shall be divided one-half to the state and one-half to the recognized employee organization. If the board appoints the mediator, the costs of mediation shall be paid by the board

3518.5. A reasonable number of employee representatives of employee organizations shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the state on matters within the scope of representation

This section shall apply only to state employees, as defined by subdivision (c) of Section 3513, and only for periods when a memorandum of understanding is not in effect

3519. It shall be unlawful for the state to:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter

(b) Deny to employee organizations rights guaranteed to them by

this chapter

(c) Refuse or fail to meet and confer in good faith with a recognized employee organization.

(d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.

(e) Refuse to participate in good faith in the mediation procedure set forth in Section 3518

3519.5 It shall be unlawful for an employee organization to:

(a) Cause or attempt to cause the state to violate Section 3519

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(c) Refuse or fail to meet and confer in good faith with a state agency employer of any of the employees of which it is the recognized employee organization.

(d) Refuse to participate in good faith in the mediation procedure set forth in Section 3518.

3520. Judicial review of a unit determination shall only be allowed: (1) when the board, in response to a petition from the state or an employee organization, agrees that the case is one of special importance and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint.

Review may be sought in the superior court in any county in which the employees involved in the proceeding work. Notwithstanding the above, the board may order an election pending judicial review.

(b) Any charging party, respondent, or intervenor aggrieved by a decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, shall have the right to seek review in the superior court in any county in which the practice in question occurred.

(c) Additionally, the board shall have the right to seek enforcement of any decision or order in the superior court in any county in which the employees affected by the decision or order work.

(d) The findings of the board on questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Once the record of the case has been filed with the superior court, its jurisdiction shall be exclusive and its judgment final, except that it shall be subject to appeal to higher courts in this state.

3520.5. (a) The state shall grant exclusive recognition to employee organizations formally recognized pursuant to rules established by the board for employees of the state or an appropriate unit thereof, subject to the right of an employee to represent himself.

(b) The board shall establish reasonable procedures for petitions and for holding elections and determining appropriate units

pursuant to subdivision (a).

(c) The board shall also establish procedures whereby recognition of employee organizations formally recognized as exclusive representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of such recognition

3521. (a) In determining an appropriate unit, the board shall be governed by the criteria in subdivision (b). However, the board shall not direct an election in a unit unless one or more of the employee organizations involved in the proceeding is seeking or agrees to an election in such a unit.

(b) In determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar additional or training requirements; and the extent to which the employees have common supervision

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

(6) Notwithstanding the foregoing provisions of this section, or any other provision of law, an appropriate group of skilled crafts employees shall have the right to be a separate unit of representation based upon occupation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers.

(c) There shall be a presumption that professional employees and nonprofessional employees should not be included in the same unit.

However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (b) establishes.

3521.5. The term "professional employee" means (a) any employee engaged in work (1) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (2) involving the consistent exercise of discretion and judgment in its performance; (3) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (4) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes, or (b) any employee, who (1) has completed the courses of specialized intellectual instruction and study described in paragraph 4 of subdivision (a), and (2) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in subdivision (a).

3521.7. The board may, in accordance with reasonable standards, designate positions or classes of positions which have duties consisting primarily of the enforcement of state laws. Employees so designated shall not be denied the right to be in a unit composed solely of such employees.

3522. Except as provided by Sections 3522.1 to 3522.9, inclusive, supervisory employees shall not have the rights or be covered by any provision or definition established by this chapter.

3522.1. "Supervisory employee" means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

3522.2. (a) Supervisory employees shall not participate in the handling of grievances on behalf of nonsupervisory employees. Nonsupervisory employees shall not participate in the handling of grievances on behalf of supervisory employees.

(b) Supervisory employees shall not participate in meet and confer sessions on behalf of nonsupervisory employees. Nonsupervisory employees shall not participate in meet and confer sessions on behalf of supervisory employees.

(c) The prohibition in subdivisions (a) and (b) shall not be construed to apply to the paid staff of an employee organization.

(d) Supervisory employees shall not vote on questions of ratification or rejection of memorandums of understanding reached on behalf of nonsupervisory employees

3522.3 Supervisory employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of supervisory employee-employer relations as set forth in Section 3522.6. Supervisory employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public employer

3522.4. Employee organizations shall have the right to represent their supervisory employee members in their employment relations, including grievances, with the employer Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of employees from membership. Nothing in this section shall prohibit any employee from appearing on his or her own behalf or through his or her chosen representative in his or her employment relations and grievances with the public employer

3522.5 The scope of representation for supervisory employees shall include all matters relating to employment conditions and supervisory employee-employer relations including wages, hours, and other terms and conditions of employment.

3522.6. Upon request, the state shall meet and confer with employee organizations representing supervisory employees "Meet and confer" means that they shall consider as fully as the employer deems reasonable such presentations as are made by the employee organization on behalf of its supervisory members prior to arriving at a determination of policy or course of action

3522.7. The state employer shall allow a reasonable number of supervisory public employee representatives of verified employee organizations reasonable time off without loss of compensation or other benefits when meeting and conferring with representatives of the state employer on matters within the scope of representation.

3522.8. The state employer and employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against supervisory employees because of their exercise of their rights under this article.

3522.9 The employer may adopt rules and regulations for the administration of supervisory employee-employer relations under these provisions Such rules and regulations may include provisions for:

(a) Verifying that an employee organization does in fact represent supervisory employees of the employer.

(b) Verifying the official status of employee organization officers and representatives.

(c) Access of employee organization officers and representatives to work locations.

(d) Use of official bulletin boards and other means of communication by employee organizations.

(e) Furnishing nonconfidential information pertaining to supervisory employee relations to employee organizations.

(f) Such other matters as are necessary to carry out the purposes of Sections 3522 1 to 3522.9, inclusive.

3523. (a) All initial meet and confer proposals of recognized employee organizations shall be presented to the public employer at a public meeting, and such proposals thereafter shall be a public record

All initial meet and confer proposals or counterproposals of the public employer shall be presented to the recognized employee organization at a public meeting, and such proposals or counterproposals thereafter shall be a public record

(b) Except in cases of emergency as provided in subdivision (d), no meeting and conferring shall take place on any proposal subject to subdivision (a) until not less than seven consecutive days have elapsed to enable the public to become informed, and to publicly express itself regarding the proposals, as well as regarding other possible subjects of meeting and conferring and thereafter, the public employer shall, in open meeting, hear public comment on all matters related to the meet and confer proposals

(c) Forty-eight hours after any proposal which includes any substantive subject which has not first been presented as proposals for public reaction pursuant to this section is offered during any meeting and conferring session, such proposals and the position, if any, taken thereon by the representatives of the public employer, shall be a public record

(d) Subdivision (b) shall not apply when the public employer determines that, due to an act of God, natural disaster, or other emergency or calamity affecting the state, and which is beyond the control of the employer or employee organization, it must meet and confer and take action upon such a proposal immediately and without sufficient time for the public to become informed and to publicly express itself In such cases the results of such meeting and conferring shall be made public as soon as reasonably possible

3523 5 The enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to state employees

3524 This chapter shall be known and may be cited as the State Employer-Employee Relations Act

SEC 5 Section 3526 of the Government Code is amended to read

3526 As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state, as defined in subdivision (c), and which has as one of its primary purposes representing its members in employer-employee relations

(b) The provisions of this chapter apply only to the State of

California. The "State of California" as used in this chapter means such state agencies, boards, commissions, administrative officers, or other representatives as may be designated by law.

(c) "Public employee," "state employee," "employee of the state," or "employee" means any person employed by the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state, and excepting state civil service or exempt employees defined in subdivision (c) of Section 3513.

SEC. 6 Section 3540.1 of the Government Code is amended to read.

3540 1 As used in this chapter.

(a) "Board" means the Public Employment Relations Board created pursuant to Section 3541.

(b) "Certified organization" or "certified employee organization" means an organization which has been certified by the board as the exclusive representative of the public school employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3544).

(c) "Confidential employee" means any employee who, in the regular course of his duties, has access to, or possesses information relating to, his employer's employer-employee relations.

(d) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer "Employee organization" shall also include any person such an organization authorizes to act on its behalf.

(e) "Exclusive representative" means the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

(f) "Impasse" means that the parties to a dispute over matters within the scope of representation have reached a point in meeting and negotiating at which their differences in positions are so substantial or prolonged that future meetings would be futile

(g) "Management employee" means any employee in a position having significant responsibilities for formulating district policies or administering district programs. Management positions shall be designated by the public school employer subject to review by the Educational Employment Relations Board

(h) "Meeting and negotiating" means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation and the execution, if requested by either party, of a written document incorporating any agreements reached, which document shall, when accepted by the exclusive representative and the public school employer, become binding upon both parties and, notwithstanding Section 3543.7, shall not be subject to subdivision 2 of Section 1667 of the Civil Code. The

agreement may be for a period of not to exceed three years.

(i) "Organizational security" means either:

(1) An arrangement pursuant to which a public school employee may decide whether or not to join an employee organization, but which requires him, as a condition of continued employment, if he does join, to maintain his membership in good standing for the duration of the written agreement. However, no such arrangement shall deprive the employee of the right to terminate his obligation to the employee organization within a period of 30 days following the expiration of a written agreement; or

(2) An arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of such organization for the duration of the agreement, or a period of three years from the effective date of such agreement, whichever comes first.

(j) "Public school employee" or "employee" means any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees

(k) "Public school employer" or "employer" means the governing board of a school district, a school district, a county board of education, or a county superintendent of schools.

(*l*) "Recognized organization" or "recognized employee organization" means an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544)

(m) "Supervisory employee" means any employee, regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend such action, if, in connection with the foregoing functions, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgement

SEC 7 Section 3541 of the Government Code is amended to read.

3541. (a) There is in state government the Public Employment Relations Board which shall be independent of any state agency and shall consist of three members The members of the board shall be appointed by the Governor by and with the advice and consent of the Senate. One of the original members shall be chosen for a term of one year, one for a term of three years, and one for a term of five years Thereafter terms shall be for a period of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds Members of the board shall be eligible for reappointment The Governor shall select one member to serve as chairperson A member of the board may be

removed by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the commission, and two members of the board shall at all times constitute a quorum.

(c) Members of the board shall hold no other public office in the state, and shall not receive any other compensation for services rendered

(d) Each member of the board shall be paid an annual salary of forty-two thousand five hundred dollars ($42,500). In addition to his salary, each member of the board shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his duties, subject to the rules of the State Board of Control relative to the payment of such expenses to state officers generally.

(e) The chairperson shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint such other persons as may, from time to time, be deemed necessary for the performance of the board's administrative functions, prescribe their duties, fix their compensation, and provide for reimbursement of their expenses in the amounts made available therefor by appropriation. The executive director shall be a person familiar with employer-employee relations. The executive director shall be subject to removal at the pleasure of the chairperson. The board shall employ a general counsel to assist it in the performance of its functions under this chapter.

(f) The executive director and general counsel serving the board on December 31, 1977, shall become employees of the Public Employment Relations Board and shall continue to serve at the discretion of the board. A person so employed may, independently of the Attorney General, represent the board in any litigation or other matter pending in a court of law to which the board is a party or in which it is otherwise interested.

SEC. 8. Section 18850 of the Government Code is amended to read:

18850. (a) The board shall establish and adjust salary ranges for each class of position in the state civil service. The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities In establishing or changing such ranges consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The board shall make no adjustments which require expenditures in excess of existing appropriations which may be used for salary increase purposes The board may make a change in salary range retroactive to the date of application for such change

(b) Notwithstanding any other provision of law, the board shall not establish, adjust, or recommend a salary range for any employees in an appropriate unit where an employee organization has been chosen as the exclusive representative pursuant to Section 3520.5

(c) Any reports or information issued by the board pursuant to

this section shall be given in confidence to the parties meeting and conferring pursuant to Section 3517. This subdivision shall not preclude the board from giving any reports or information to the Legislature

SEC 9. Section 18850 2 of the Government Code is repealed

SEC 10 Section 18850 3 of the Government Code is repealed

SEC 11 If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 12. This act shall be operative on July 1, 1978, except that Section 3541 of the Government Code, as amended by Section 7, shall become operative January 1, 1978.

CHAPTER 1160

An act to add Chapter 12 5 (commencing with Section 13955) to Division 7 of the Water Code, relating to providing for the preparation, issuance and sale of state bonds to create a fund to provide aid to public agencies in the planning, design and construction of facilities for the control and prevention of water pollution and for water reclamation and water conservation, defining the powers and duties of state officers in respect to the administration of the provisions hereof, providing ways and means for the payment of the interest of such bonds as such interest falls due, and also for the payment and discharge of the principal of such bonds as such principal matures; appropriating money for the purpose of carrying out this chapter; and providing for the submission of the measure to the people at a special election to be consolidated with the 1978 direct primary election

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1 Chapter 12.5 (commencing with Section 13955) is added to Division 7 of the Water Code, to read:

CHAPTER 12 5 CLEAN WATER AND WATER CONSERVATION BOND LAW OF 1978

13955 This chapter shall be known and may be cited as the Clean Water and Water Conservation Bond Law of 1978

13956. The Legislature hereby finds and declares that clean water, which fosters the health of the people, the beauty of their environment, the expansion of industry and agriculture, the

enhancement of fish and wildlife, the improvement of recreational facilities and the provision of pure drinking water at a reasonable cost, is an essential public need. However, because the State of California is subject to great fluctuations in precipitation which have created semiarid and arid conditions in many parts of the state, and because the state has historically experienced a dry year on the average once every fourth year and has occasionally experienced such dry years consecutively resulting in conditions of drought, it is of paramount importance that the limited water resources of the state be preserved and protected from pollution and degradation in order to ensure continued economic, community, and social growth. Although the State of California is endowed with abundant lakes and ponds, streams and rivers, and hundreds of miles of shoreline, as well as large quantities of underground water, these vast water resources are threatened by pollution, which, if not checked, will impede the state's economic, community and social growth. The chief cause of pollution is the discharge of inadequately treated waste into the waters of the state. Many public agencies have not met the demands for adequate waste treatment or the control of water pollution because of inadequate financial resources and other responsibilities. Increasing population accompanied by accelerating urbanization, growing demands for water of high quality, rising costs of construction and technological changes mean that unless the state acts now the needs may soar beyond the means available for public finance. Meeting these needs is a proper purpose of the federal, state and local governments. Local agencies, by reason of their closeness to the problem, should continue to have primary responsibility for construction, operation and maintenance of the facilities necessary to cleanse our waters. Since water pollution knows no political boundaries and since the cost of eliminating the existing backlog of needed facilities and of providing additional facilities for future needs will be beyond the ability of local agencies to pay, the state, to meet its responsibility to protect and promote the health, safety and welfare of the inhabitants of the state, should assist in the financing. The federal government is contributing to the cost of control of water pollution, and just provision should be made to cooperate with the United States of America.

13956.5. The Legislature further finds and declares that the people of the state have a primary interest in the development and implementation of programs, devices, and systems to conserve water so as to make more efficient use of existing water supplies and to reclaim wastewater in order to supplement present surface and underground water supplies Utilization of reclaimed water and water which has otherwise been conserved will economically benefit the people of the state, will augment the existing water supplies of many local communities, and will assist in meeting future water requirements of the state. It is therefore further intended by the Legislature that the state undertake all appropriate steps to encourage and develop water conservation and reclamation so that

such water may be made available to help meet the growing water requirements of the state.

13957. It is the intent of this chapter to provide necessary funds to insure the full participation by the state under the provisions of Title II of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq) and acts amendatory thereof or supplementary thereto, and to provide funds for state participation in the financing of projects, for the control of water pollution, or for the development of water conservation and wastewater reclamation, which are ineligible for federal assistance under Title II of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto.

13958. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter except that, notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of the bonds shall not exceed 50 years from the date of each respective series. The maturity of each respective series shall be calculated from the date of such series.

13959. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings.

(a) "Committee" means the Clean Water and Water Conservation Finance Committee created by Section 13960.

(b) "Board" means the State Water Resources Control Board.

(c) "Fund" means the State Clean Water and Water Conservation Fund.

(d) "Municipality' shall have the same meaning as in the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and acts amendatory thereof or supplementary thereto and shall also include the state or any agency, department, or political subdivision thereof.

(e) "Treatment works" shall have the same meaning as in the Federal Water Pollution Control Act (33 U.S C. 1251 et seq.) and acts amendatory thereof or supplementary thereto, and shall also include such additional devices and systems as are necessary and proper to control water pollution, reclaim wastewater, or reduce use of and otherwise conserve water.

(f) "Construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(g) "Eligible project" means a project for the construction of treatment works which is all of the following:

(1) Eligible for federal assistance, whether or not federal funds

are then available therefor;

(2) Necessary to prevent water pollution;

(3) Certified by the board as entitled to priority over other treatment works, and which complies with applicable water quality standards, policies and plans

(h) "Eligible state assisted project" means a project for the construction of treatment works which is all of the following.

(1) Ineligible for federal assistance

(2) Necessary to prevent water pollution or feasible and cost effective for conservation or reclamation of water

(3) Certified by the board as entitled to priority over other treatment works and which complies with applicable water quality and other applicable federal or state standards, policies, and plans.

(i) "Federal assistance" means funds available to a municipality either directly or through allocation by the state, from the federal government as grants for construction of treatment works, pursuant to Title II of the Federal Water Pollution Control Act, and acts amendatory thereof or supplementary thereto

13959.5 There is in the State Treasury the State Clean Water and Water Conservation Fund, which fund is hereby created.

13960 The Clean Water and Water Conservation Finance Committee is hereby created. The committee shall consist of the Governor or his designated representative, the State Controller, the State Treasurer, the Director of Finance, and the chairman of the board. The executive officer of the board shall serve as a member of the committee in the absence of the chairman. Said committee shall be the "committee" as that term is used in the State General Obligation Bond Law.

13961 The committee is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of three hundred seventy-five million dollars ($375,000,000), in the manner provided in this chapter. Such debt or debts, liability or liabilities, shall be created for the purpose of providing the fund to be used for the object and work specified in Section 13962

13962. (a) The moneys in the fund shall be used for the purposes set forth in this section

(b) The board is authorized to enter into contracts with municipalities having authority to construct, operate and maintain treatment works, for grants to such municipalities to aid in the construction of eligible projects

Grants may be made pursuant to this section to reimburse municipalities for the state share of construction costs for eligible projects which received federal assistance but which did not receive an appropriate state grant due solely to depletion of the fund created pursuant to the Clean Water Bond Law of 1974, provided, however, that eligibility for reimbursement under this section is limited to the actual construction capital costs incurred

Any contract pursuant to this section may include such provisions

as may be agreed upon by the parties thereto, and any such contract concerning an eligible project shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the eligible project;

(2) An agreement by the board to pay to the municipality, during the progress of construction or following completion of construction as may be agreed upon by the parties, an amount which equals at least 12½ percent of the eligible project cost determined pursuant to federal and state laws and regulations;

(3) An agreement by the municipality, (i) to proceed expeditiously with, and complete, the eligible project, (ii) to commence operation of the treatment works on completion thereof, and to properly operate and maintain such works in accordance with applicable provisions of law, (iii) to apply for and make reasonable efforts to secure federal assistance for the eligible project, (iv) to secure the approval of the board before applying for federal assistance in order to maximize the amounts of such assistance received or to be received for all eligible projects in the state, and (v) to provide for payment of the municipality's share of the cost of the eligible project

(c) In addition to the powers set forth in subdivision (b) of this section, the board is authorized to enter into contracts with municipalities for grants for eligible state assisted projects.

Any contract for an eligible state assisted project pursuant to this section may include such provisions as may be agreed upon by the parties thereto, provided, however, that the amount of moneys which may be granted or otherwise committed to municipalities for such projects shall not exceed fifty million dollars ($50,000,000) in the aggregate

Any contract concerning an eligible state assisted project shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the eligible state assisted project;

(2) An agreement by the board to pay to the municipality, during the progress of construction or following completion of construction, as may be agreed upon by the parties, an amount which at least equals the local share of the cost of construction of such projects as determined pursuant to applicable federal and state laws and regulations:

(3) An agreement by the municipality (i) to proceed expeditiously with, and complete, such project, (ii) to commence operation of such project on completion thereof, and to properly operate and maintain such project in accordance with applicable provisions of law, (iii) to provide for payment of the municipality's share of the cost of such project (iv) if appropriate, to apply for and make reasonable efforts to secure federal assistance, other than that available pursuant to Title II of the Federal Water Pollution Control Act, for such project and to secure the approval of the board before applying for federal assistance in order to maximize the amounts of

such assistance received or to be received for all eligible state assisted projects

(d) The board may make direct grants to any municipality or by contract or otherwise undertake plans, surveys, research, development and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the board pursuant to this division and to prepare recommendations with regard thereto, including the preparation of comprehensive statewide or areawide studies and reports on the collection, treatment and disposal of waste under a comprehensive cooperative plan

(e) The board may from time to time with the approval of the committee transfer moneys in the fund to the State Water Quality Control Fund to be available for loans to public agencies pursuant to Chapter 6 (commencing with Section 13400) of this division.

(f) As much of the moneys in the fund as is necessary shall be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code

(g) The board may adopt rules and regulations governing the making and enforcing of contracts pursuant to this section

13963. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereon

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect said additional sum

All money deposited in the fund which has been derived from premium and accrued interest on bonds sold shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

13964 All money deposited in the fund pursuant to any provision of law requiring repayments to the state for assistance financed by the proceeds of the bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund such money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which has been paid from the General Fund

13965 There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as said principal and interest become due and payable

(b) Such sum as is necessary to carry out the provisions of Section 13966, which sum is appropriated without regard to fiscal years.

13966 For the purpose of carrying out the provisions of this chapter, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund and shall be disbursed by the board in accordance with this chapter Any moneys made available under this section to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this chapter.

13967. Upon request of the board, supported by a statement of the proposed arrangements to be made pursuant to Section 13962 for the purposes therein stated, the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to make such arrangements, and if so, the amount of bonds then to be issued and sold. Successive issues of bonds may be authorized and sold to make such arrangements progressively, and it shall not be necessary that all of the bonds herein authorized to be issued shall be sold at any one time

13968. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

13969. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 13962 but shall not be available for transfer to the General Fund to pay principal and interest on bonds. The money in the fund may be expended only as herein provided.

SEC. 2. Section 1 of this act shall take effect upon the adoption of the people of the Clean Water and Water Conservation Bond Law of 1978, as set forth in Section 1 of this act. Sections 2 to 9, inclusive, of this act provide for the calling of an election and contain provisions relating to and necessary for the submission of the Clean Water and Water Conservation Bond Law of 1978 to the people, and for returning, canvassing, and proclaiming the votes thereon, and shall take effect immediately.

SEC. 3. A special election is hereby called to be held throughout the state on the sixth day of June. 1978. The special election shall be consolidated with the direct primary election to be held on that date. The consolidated election shall be held and conducted in all respects as if there were only one election and only one form of ballot shall be used. Except as otherwise provided in this act, all of the provisions of law relating to the submission of measures proposed by the Legislature shall apply to the measure submitted pursuant to this act. A ballot pamphlet shall be prepared, compiled and distributed relating to the Clean Water and Water Conservation Bond Law of 1978, set forth in Section 1 of this act. The Secretary of State shall

distribute the ballot pamphlets to the county clerks not later than 45 days before the election, and the county clerks shall commence to mail those pamphlets to the voters not less than 15 days before the election. The distribution of ballot pamphlets in all respects shall be conducted in accordance with the provisions of Sections 3578 and 3579 of the Elections Code.

SEC 4. At the special election called by this act there shall be submitted to the electors Section 1 of this act. All provisions of this act shall control the submission of Section 1 of this act to, and the holding of, the special election called by this act.

SEC 5. Upon the effective date of this section, arguments for and against the measure hereby ordered submitted to the electors shall be prepared in time, form, and manner as provided in Chapter 8 (commencing with Section 88000) of Title 9 of the Government Code and, to the extent not inconsistent therewith, in Article 4 (commencing with Section 3525) of Chapter 1 of Division 5 of the Elections Code

SEC 6 The special election provided for in this act shall be proclaimed, held, conducted, the ballots shall be prepared, marked, collected, counted and canvassed and the results shall be ascertained and the returns thereof made in all respects in accordance with the provisions of the Constitution applicable thereto and the law governing general elections insofar as provisions thereof are applicable to the election provided for in this act; provided, however, that the Governor need not issue his election proclamation until 30 days before the election

SEC. 7. Notwithstanding any other provision of law, all ballots at said election shall have printed thereon and in a square thereof, the words, "For the Clean Water and Water Conservation Bond Law of 1978," and in the same square under said words the following in eight-point type. "This act provides for a bond issue of three hundred seventy-five million dollars ($375,000,000) to provide funds for water pollution control and water conservation." In the square immediately below the square containing such words, there shall be printed on said ballot the words, "Against the Clean Water and Water Conservation Bond Law of 1978," and in the same square immediately below said words, in eight-point type shall be printed "This act provides for a bond issue of three hundred seventy-five million dollars ($375,000,000) to provide funds for water pollution control and water conservation." Opposite the words "For the Clean Water and Water Conservation Bond Law of 1978," and "Against the Clean Water and Water Conservation Bond Law of 1978," there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against said act, and those voting for said act shall do so by placing a cross opposite the words, "For the Clean Water and Water Conservation Bond Law of 1978," and those voting against the said act shall do so by placing a cross opposite the words "Against the Clean Water and Water Conservation Bond Law of 1978." Provided, that where the voting of

said election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, such use of such voting machines and the expression of the voters' choice by means thereof, shall be deemed to comply with the provisions of this section. The Governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation calling for said election

SEC. 8. The votes cast for or against the Clean Water and Water Conservation Bond Law of 1978 shall be counted, returned, canvassed, and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appears that said act shall have received a majority of all the votes cast for and against it at said election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrepealable until the principal and interest of the liabilities herein created shall be paid and discharged; but if a majority of the votes cast as aforesaid are against this act then the same shall be and become void.

SEC. 9. Upon the effective date of this section, the Secretary of State shall request the Legislative Analyst to prepare an analysis of the measure in accordance with the provisions of Chapter 8 (commencing with Section 88000) of Title 9 of the Government Code.

CHAPTER 1161

An act to add and repeal Sections 66786.8, 66791.5, and 66796.22 and Title 7.8 (commencing with Section 68000) to the Government Code, to add and repeal Chapter 3.5 (commencing with Section 24385) to Division 29 of the Health and Safety Code, to add and repeal Sections 374b.5 and 969e to, the Penal Code, and to add and repeal Part 19 (commencing with Section 39000) to the Revenue and Taxation Code, relating to solid waste, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 66786.8 is added to the Government Code, to read:

66786.8. The board shall take or cause to be taken by contract, such actions as may be necessary to:

(a) Identify the geographical location of existing or potential markets for recovered materials;

(b) Identify the economic and technical barriers to the use of recovered materials, and

(c) Encourage the development of new uses for recovered

materials.

A summary of such findings and any such actions taken and any recommendations resulting therefrom shall be transmitted to the Governor and Legislature by December 1 of each odd-numbered year, commencing on December 1, 1979.

SEC. 1.5. Section 66791.5 is added to the Government Code, to read:

66791.5. The board may accept grants, gifts, and donations for purposes specified in this title and Title 7.8.

SEC. 2. Section 66796.22 is added to the Government Code, to read:

66796.22. (a) In addition to any other fees, effective January 1, 1979, there shall be imposed by the board on each operator of a publicly or privately owned solid waste disposal site within a standard metropolitan statistical area a surcharge equivalent to twenty-five cents ($0.25) per ton of solid wastes disposed.

(b) The board shall prescribe that the surcharge be based upon either the weight, volume, or type of solid waste received by any such operator or upon any other appropriate parameter.

(c) The board shall exempt from such surcharge:

(1) Solid wastes which cannot practicably be disposed of other than by burial at a solid waste disposal site, including but not limited to, agricultural and food processing wastes, except where such wastes have not been separated from other wastes.

(2) Solid wastes disposed of by individuals who engage in source separation at the first point of disposal, provided that the collection and disposal of such wastes is operated to minimize the amount disposed of by burial at a solid waste disposal site.

(d) The board shall prescribe the manner in which such fees are to be collected and forwarded to the board.

(e) Moneys collected by the board pursuant to this section shall be deposited in the State Treasury to the credit of the State Litter Control, Recycling, and Resource Recovery Fund, which is hereby created.

(f) In adopting the surcharge, the board shall require that the surcharge be reflected in the rates, levies, or other fees charged by the operator of a solid waste disposal site and by any other person or agency involved in the setting of rates, levies, or fees for the collection and disposal of solid wastes at a solid waste disposal site. It is the intent of the Legislature that existing rates, levies, or fees be increased by an amount equivalent to the surcharge in order that the surcharge is paid by persons who first dispose of waste material.

SEC. 3. Title 7.8 (commencing with Section 68000) is added to the Government Code, to read:

TITLE 7 8 LITTER CONTROL, RECYCLING, AND RESOURCE RECOVERY

CHAPTER 1 GENERAL PROVISIONS

Article 1. Findi gs and Declarations

68000. This act shall be known and may be cited as the Litter Control, Recycling, and Resource Recovery Act of 1977.

68001. The Legislature finds the following·

(a) The rapid population growth of California and the ever increasing mobility of its people heighten the fundamental need for a healthful, clean and beautiful environment, the proliferation and accumulation of improperly discarded materials throughout the state impairs this need; the proliferation and accumulation of litter is statewide in scope and that uniform state action rather than a piecemeal county, city, or regional solution is necessary to accomplish effective litter control, and that statewide uniformity in control programs, including uniformity in litter bags, receptacles, signs, symbols, and regulations is desirable and necessary to accomplish effective litter control

(b) The burden placed on existing solid waste disposal systems to collect littered products and the need to reduce energy and other resource consumption makes it imperative that recycling efforts be intensified and that resource recovery systems be developed to process discarded packaging materials, as well as other energy rich components of solid waste.

68002. The Legislature therefore declares that the protection of the public health, safety, and well-being, the maintenance of the economic productivity and environmental quality of the state, and the conservation of natural resou ces require the implementation of a comprehensive litter and waste removal program throughout the state, and the rapid development of technologically and economically feasible, operational projects for the recovery of energy and resources from litter and solid waste

Article 2. Definitions

68010. Unless the context otherwise requires, the definitions in this article govern the construction of this title.

68011. "Board" means the State Solid Waste Management Board

68012. "Fund" means the State Litter Control, Recycling, and Resource Recovery Fund.

68013. "Litter" means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture,

mining, logging, sawmilling, or manufacturing.

68014. "Litter receptacle" means those containers specified by the board and which shall be acceptable to the board as to size, shape, capacity, and color and which shall bear the state antilitter symbol, as well as any other receptacle suitable for depositing litter

68015. "Solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes

68016 "Processing" means the reduction, separation, conversion, or recycling of litter and solid waste.

68017. "Recycling" means the process of sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of using the altered form.

68018. "Person" includes any private individual, organization, partnership, corporation, city, county, district, or the state or any department or agency thereof

Article 3. Policy

68040 Except as otherwise provided elsewhere in this chapter, all money deposited in the State Litter Control, Recycling, and Resource Recovery Fund shall be available for appropriation for the purposes set forth in this article.

68041 A public agency or private entity eligible to receive a grant pursuant to this article may make an application for such grant to the board in such form as the board shall require.

68042. (a) The board shall grant funds from the State Litter Control, Recycling, and Resource Recovery Fund to eligible public agencies or private entities who have submitted applications for such funds when the board determines that the plan submitted by any such agency or entity is qualified and suitable for the purposes of the program.

(b) The board shall adopt guidelines for the determination of eligibility of public agencies and private entities and the determination of qualification and suitability of plans submitted by such agencies or entities Such guidelines shall be consistent with the policy and provisions of this chapter.

(c) It is the intent of the Legislature that the money in the fund be substantially expended each year, with the total commitments to each of the various classes of expenditure in this article adhering as closely to the specified percentages as is consistent with efficient and prudent administration.

(d) It is the intent of the Legislature that funds made available by this chapter shall be used to supplement and not replace existing funding for the same purposes.

68043. Thirty percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended on cleanup of recreational land and public thoroughfares distributed as follows:

(a) One percent to the Department of Parks and Recreation for cleanup on lands under its jurisdiction

(b) Two percent to the California Conservation Corps, or other qualified state or nonprofit agencies as determined by the board, for cleanup on federal lands used for recreational purposes, including national forests, national parks, and Bureau of Land Management lands.

(c) Two percent to the Department of Transportation for cleanup of state freeways and highways.

(d) Twenty-five percent to cities and counties, for cleanup on recreational lands and public thoroughfares within that city and county. Of the total amount allocated pursuant to this subdivision, 50 percent shall be allocated for expenditure within each county in proportion to the ratio of the population of such county to the total population of the state according to the most recent annual estimates published by the Department of Finance, and 50 percent shall be allocated for expenditure within each county in proportion to the ratio of the mileage of city and county streets and highways within such county to the total city and county street and highway mileage in the state based on the most recent estimates of the Department of Transportation.

The total funds allocated for expenditure within each county shall be distributed by either of the two following procedures:

(1) Fifty percent to the respective cities and the county in proportion to the ratio of the population residing in the respective cities and the unincorporated area to the total population of the county, and 50 percent to the respective cities and the county in proportion to the ratio of the city and county streets and highway mileage within the respective cities and the unincorporated area to the total city and county street and highway mileage within the county; or

(2) In accordance with a plan developed by the county and the cities and approved by the county board of supervisors and by at least 50 percent of the cities representing at least 50 percent of the total population residing within the cities in the county.

(e) The board may authorize expenditure by public agencies other than cities and counties where it can be demonstrated that other agencies are providing a substantial portion of recreation and park services within a county or are receiving a substantial portion of the county's recreational land litter and such expenditure is included within the plan described in paragraph (2) of subdivision (d) of this section.

68045. In making grants pursuant to subdivisions (d) and (e) of Section 68043 for litter cleanup, the board shall require a commitment by the grantee, in a manner satisfactory to the board with regard to:

(a) Application of behavioral science techniques in litter control.

(b) Improved sanitation technology.

(c) Continuous public education.

(d) Vigorous enforcement

(e) An annual report on progress on cleaning up litter.

68046. Twenty percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board for grants and loans to public agencies, private entities, or combinations thereof, as determined by the board, for implementation of the state research and development program for recovery of resources and energy from wastes mandated by Section 66785. Grants or loans for the planning, design, construction, operation, and maintenance of resources and energy recovery projects authorized by this subdivision shall be made by the board only if the project.

(a) Is not in potential conflict with the state policy for solid waste management required by Section 66770 or the solid waste management plans required by Section 66780.

(b) Is designed to make a substantial, long-term contribution to regional or areawide solution of the solid and liquid waste disposal problems.

(c) Advances the development of technologically and economically feasible, operational resources and energy recovery systems.

(d) Provides an equitable procedure for financing and distributing the costs associated with project planning, design, construction, operation, maintenance, and reserve for contingencies among the users.

(e) Is proposed by the public agency or private entity, or combination thereof, which:

(1) Demonstrates a capacity to provide satisfactory performance of solid waste management activities;

(2) Possesses sufficient financial resources and stability to ensure protection of the public interest in the project by the bonding or other sureties deemed appropriate by the board,

(3) Is capable of producing plans and specifications susceptible to implementation; and

(4) To the extent practicable, provides written confirmation of the economic viability of the project in the form of contracts for recovered resources or energy with guaranteed purchasers at guaranteed prices for the period of time deemed satisfactory by the board.

(f) Pursuant to guidelines and criteria adopted by the board, subsidies may be provided in such grants and loans for the difference between the unit selling price of recovered resources or energy and the total cost of producing such recovered resources and energy.

(g) Grants or loans authorized by this section for any project shall not:

(1) Exceed 75 percent of the total planning, design, and construction costs, plus the first three years' operation and maintenance costs,

(2) Be provided for land acquisition costs; and

(3) Be made until the applicant has made provision satisfactory to the board for proper and efficient construction, operation, and maintenance of the project.

(h) Grants made by the board under this section shall be made with the express requirements that.

(1) The recipient will accept for processing, without charge, any amount of litter picked up from roadsides or recreation areas by nonprofit organizations and public agencies conducting organized litter cleanup programs. Insofar as economic feasibility warrants, the recipient may pay an appropriate premium for such litter if it can be demonstrated that it contains percentages of marketable salvage materials in excess of the average for municipal solid waste;

(2) In the event the project so supported with a grant becomes self sustaining, as determined by the board, the grant shall be deemed to be a loan to the entity receiving such assistance, and shall be repayable to the board for deposit in the State Litter Control, Recycling, and Resource Recovery Fund, for expenditure in the resource and energy recovery program in accordance with terms and conditions agreed upon between the entity and the board. Such terms and conditions shall be expressed in a "loan agreement" entered into prior to the rendering of such assistance;

(3) The obligation for a loan shall be in the form of a note or notes payable to the order of the board, carrying a rate of interest acceptable to the board which is payable solely from the revenues of the project by its operator, and subordinated to any security interest or interests which are equivalent to a first mortgage lien upon the facilities or assets of the project or a pledge of its revenues; and

(4) Nothing in this subdivision shall prohibit the board from receiving additional compensation out of the revenues of the project in the form of income participation or other payments.

68047. Twenty-five percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be for grants to public agencies and private entities, in accordance with guidelines and criteria adopted by the board, for the expansion of existing and the creation of new community recycling centers; provided, that such grants shall not be used for the payment of salaries or wages. In adopting guidelines and criteria for the implementation of this section, the board shall consider, as a minimum, the following:

(a) Availability to the potential grantee of land or property on or in which the center will operate.

(b) An acceptable business plan for the operation of the center, including a detailed listing of the full range of materials and products which will be accepted.

(c) The availability of necessary licenses and permits.

(d) Letters of intent from those who will accept the materials and products recovered at the center.

(e) A description of the accounting plans of the center, both as to materials and moneys.

(f) The number of centers in any one geographical area or region.

68048. Seven and one-half percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board and state and local agencies to organize and conduct programs

aimed at increasing awareness of the litter problem and in securing greater compliance with litter laws. Such programs shall stress educational techniques and shall include cleanup drives conducted by local agencies and nonprofit organizations using volunteer help.

68049. Five percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board for grants to state and local agencies, as determined by the board, for the improved enforcement of litter-related laws according to the following criteria:

(a) Six percent of litter law enforcement funds to the Department of Parks and Recreation.

(b) Eight percent of litter law enforcement funds to the Department of Fish and Game or other qualified public agencies for litter law enforcement on federal lands used for park and recreational purposes.

(c) Eighty-six percent of litter law enforcement funds to cities and counties as follows:

(1) At least five thousand dollars ($5,000) to each county.

(2) The remainder of the total amount shall be allocated for expenditure within each county in proportion to the ratio of the population of such county to the total population of the state according to the most recent annual estimates of the Department of Finance. Such funds shall be distributed by either of the two following procedures:

(i) To the respective cities and the county in proportion to the ratio of the population residing in the respective cities and the unincorporated area to the total population of the county; or

(ii) In accordance with a plan developed by the county and the cities and approved by the county board of supervisors and by at least 50 percent of the cities representing at least 50 percent of the total population residing within the cities in the county

(d) It is the intent of the Legislature that whenever possible, the use of warnings and the provision of educational material is to be stressed, to achieve maximum compliance with litter laws

(e) Funds shall be used for hiring, equipping and training personnel to enforce litter laws. Funds may also be used to pay for extended duty or overtime during peak recreation use periods. Funds may also be used for programs that use violators of litter laws and other offenses to aid in litter cleanup.

(f) Each agency participating in the litter law enforcement program may be required to report to the board annually the number of citations and warnings issued for violation of state and local litter laws by code section or ordinance number.

68050. Two and one-half percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board for grants to state and local agencies and qualified nonprofit organizations, as determined by the board, for the purchase, installation, maintenance, and replacement of litter receptacles

The board shall establish criteria and guidelines for the location of

such receptacles.

Litter receptacles to be installed in cities and within five miles of incorporated areas or urbanized areas shall be of a type designed to minimize the dumping of household solid waste.

The board may require each agency participating in the litter receptacle program to report annually on the number of litter receptacles installed and maintained.

68051. Five percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board for grants to state and local agencies for the demonstration and evaluation of programs and projects which are not of a recycling center nature, but which nevertheless provide opportunities for the delivery to available markets and the utilization of recoverable materials.

68052. Five percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board and state and local agencies for (1) research and administrative support of the grant and loan programs for litter collection, litter receptacles, litter law enforcement, and resources and energy recovery from wastes, (2) maintenance of the solid waste management plans required by Section 66780.5, and (3) surveys of litter and solid waste composition and rate of deposit.

SEC. 4. Chapter 3.5 (commencing with Section 24385) is added to Division 29 of the Health and Safety Code, to read.

CHAPTER 3.5. LITTER RECEPTACLES AND BAGS

24385. (a) It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this chapter to procure, place and maintain such receptacles at his own expense on the premises in accordance with the provisions of this chapter.

(b) The responsibility for the removal of litter from receptacles placed at publicly-owned places shall remain with the public agencies. Removal of litter from receptacles placed on private property shall remain with the owner of the property or, in cases where the owner is not in actual possession of the premises, with the tenant thereof.

24386. Unless the context otherwise requires, the definitions as set forth below and in Article 2 (commencing with Section 68010) of Title 7.8 of the Government Code govern the construction of this part.

(a) "Public place' means any area that is used or held out for the use of the public whether owned and operated by public or private interests, but not including indoor areas. An indoor area shall be construed to mean any enclosed area covered with a roof and protected from moisture and wind.

(b) "Drive-in restaurant" means a restaurant that sells food products for immediate consumption on or near a location at which parking facilities are provided for the use of patrons in consuming

the products purchased at the restaurant.

(c) "Fast food outlet" means a restaurant that sells food products primarily on a "takeout" or "to go" basis

(d) "Grocery stores" includes, but is not limited to, convenience markets that sell groceries.

(e) "Shopping centers" means a group of two or more stores that maintains a common parking lot for patrons of those stores.

24387. Litter receptacles meeting the standards established by this chapter shall be placed in public places in the state consistent with the definitions of Section 24386, and as further defined by the board, including, but not limited to, the following:

(a) Drive-in restaurants and fast food outlets;

(b) Gasoline service stations;

(c) Shopping centers;

(d) Grocery stores;

(e) Boat launching and takeout areas;

(f) Boat moorage and fueling stations,

(g) Public piers;

(h) Parks and campgrounds;

(i) Beaches; and

(j) Outdoor parking lots which have a capacity of 50 or more automobiles and which are contiguous to the public places listed in this section.

Litter receptacles need be placed in the above public places only during times such places or events held at them are open to the public.

24388. Placement of litter receptacles shall be in conformance with laws, ordinances, resolutions and regulations pertaining to fire, safety, public health or welfare.

24389. Litter receptacles procured and placed in public places as required by this chapter shall meet minimum standards established by the board for marking, including the display of a state antilitter symbol adopted by the board and a statement of the penalties which may be levied for littering in this state. The board shall, in the interest of uniformity, attempt to emulate the antilitter symbol used by other states and antilitter organizations. The board shall also set reasonable minimum standards for size, design, location in public places, frequency of emptying, maintenance and replacement of receptacles, with consideration given to the costs involved. Inadequately maintained or unsightly litter receptacles shall be in violation of these minimum standards.

24390. (a) No person shall damage, deface, abuse or misuse any litter receptacle not owned by him so as to interfere with its proper function or to detract from its proper appearance.

(b) No person shall deposit leaves, clippings, prunings or gardening refuse in any litter receptacle.

(c) No person shall deposit household solid waste in any litter receptacle; provided, that this subdivision shall not be construed to mean that wastes of food consumed on the premises at any public

place may not be deposited in litter receptacles.

24391. (a) This chapter shall become operative on July 1, 1978.

(b) All litter receptacles in any public place designated in this chapter which are placed after the effective date hereof shall conform to the provisions of this title.

(c) Litter receptacles in any public place designated in this chapter which were in place prior to the effective date hereof shall be modified to conform with marking requirements of this title no later than July 1, 1978

(d) All litter receptacles in any public place designated in this chapter shall be modified or replaced so as to fully conform with all requirements of this title no later than January 1, 1980.

24392 Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine of not less than fifty dollars ($50)

24393. The board shall establish requirements for the design, production, and distribution of litter bags suitable for use in motor vehicles and boats The litter bag shall bear the statewide antilitter symbol and a statement of the penalties for littering. The board shall ensure the distribution of litter bags in a coordinated, statewide campaign not later than July 1 1978. In addition, the board shall provide for continuous distribution of litter bags through local offices of appropriate public agencies. Other public or private interests may produce and distribute litter bags in the manner contemplated by this section as long as the design, production, and distribution procedures are acceptable to the board.

24394. The penalties which may be levied for littering in this state shall be prominently posted throughout the state

SEC. 5. Section 374b.5 is added to the Penal Code, to read.

374b.5 It shall be unlawful to litter or cause to be littered any such property, or dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for such purpose by the governing board or body having charge thereof. It shall be unlawful to place, deposit, or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any private highway or road, including any portion of the right-of-way thereof, or any private property, without the consent of the owner, or in or upon any public park or other public property, without the consent of the state or local agency having jurisdiction over such highway, road, or property. Any person, firm or corporation violating the provisions of this section shall be guilty of an infraction, except that a violation of this section after a conviction for a violation of either this section or Section 374d, or of Section 5652 of the Fish and Game Code or of Section 13001 or 13002 of the Health and Safety Code, or of Section 23111, 23112, or 23113 of the Vehicle

Code, shall be a misdemeanor.

No portion of this section shall be construed to restrict a private owner in the use of his own private property, except that the placing, depositing, or dumping of such waste matter on such property shall not create a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or fire district, or the Division of Forestry in which case the provisions of this section shall apply.

Every person convicted of a violation of this section shall be punished by a mandatory fine of ten dollars ($10).

The court may, in addition to the fine imposed upon a second or subsequent conviction, require, in addition to any other condition of probation, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

This section shall supersede the provisions of Section 374b until July 1, 1983, and remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date

SEC. 6 Section 969e is added to the Penal Code, to read:

969e. In charging the fact of a previous conviction for a violation of Section 5652 of the Fish and Game Code, or of Section 13001 or 13002 of the Health and Safety Code or of Section 374b or 374d of the Penal Code or of Section 23111, 23112, or 23113 of the Vehicle Code, it is sufficient to state, "That the defendant, before the commission of the offense charged herein, was in (giving the title of the court in which the conviction was had) convicted of a violation of (specifying the section violated)."

SEC 7. Part 19 (commencing with Section 39000) is added to the Revenue and Taxation Code, to read:

PART 19 STATE LITTER CONTROL, RECYCLING, AND RESOURCE RECOVERY ASSESSMENT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

39000. This part shall be known and may be cited as the "Litter Control, Recycling, and Resource Recovery Assessment."

39001. "Board" means the State Board of Equalization.

39002. "Person" has the same meaning as that set forth in Section 6005.

39003. "Permitholder" means every person, including every manufacturer, wholesaler, and retailer, required to hold a seller's permit under the Sales and Use Tax Law (Part I (commencing with Section 6001) of Division 2).

39004. "Tangible personal property" has the same meaning as that set forth in Section 6016.

39005. "Manufacturer" means any person engaged in a business

activity in this state of selling tangible personal property of a kind described in Section 39102, which the person has made, produced, manufactured, processed or fabricated The selling of meals, food products, or drinks at retail to a consumer on his order and for his immediate consumption shall not classify the seller as a "manufacturer," by reason of such activity.

39006. "Wholesaler" means any person engaged in a business activity in this state of selling tangible personal property of a kind described in Section 39102, other than wholly by means of sales at retail.

39007 "Sale" means and includes any transaction defined in subdivisions (a) through (f), inclusive, of Section 6006.

CHAPTER 2. IMPOSITION OF ASSESSMENTS

39101 (a) On and after January 1, 1978, for the calendar year 1978, and for each year thereafter, every permitholder shall pay to the board an annual assessment in an amount specified in subdivision (c) for each place of business in this state at which he makes retail sales for which any taxes are imposed under the Sales and Use Tax Law (Part I (commencing with Section 6001) of Division 2).

(b) On and after January 1, 1978, for the calendar year 1978, and for each year thereafter, every manufacturer and every wholesaler making sales in this state of tangible personal property of a kind described in Section 39102 shall pay to the board an annual assessment in an amount specified in subdivision (c), except for manufacturers and wholesalers who regularly employ more than an average of 19 full-time employees and who sell one or more of the products in paragraph (1) of subdivision (d) of this section who shall pay to the board an annual assessment in an amount specified in subdivision (d).

(c) The annual assessment imposed by subdivisions (a) and (b) shall be

(1) The amount of ten dollars ($10) for each place of business at which annual retail sales generate a sales tax liability of three thousand dollars ($3,000) or less

(2) In the amount of twenty dollars ($20) for each place of business at which annual retail sales generate a sales tax liability of more than three thousand dollars ($3,000) but less than six thousand dollars ($6,000)

(3) In the amount of thirty dollars ($30) for each place of business at which annual retail sales generate a sales tax liability of six thousand dollars ($6,000) or more

(4) In the total amount of twenty-five dollars ($25) for a manufacturer or wholesaler, for all his places of business in this state, who regularly employs less than an average of 20 full-time employees annually.

(5) In the total amount of one hundred dollars ($100) for a manufacturer or wholesaler, for all his places of business in this state,

who regularly employs an average of at least 20 but less than 50 full-time employees annually.

(6) In the total amount of two hundred dollars ($200) for a manufacturer as wholesaler, for all his places of business in this state, who regularly employs an average of at least 50 but less than 100 full-time employees annually

(7) In the total amount of one thousand dollars ($1,000) for a manufacturer or wholesaler, for all his places of business in this state, who regularly employs an average of 100 or more full-time employees annually.

(d) Notwithstanding the provisions of subdivision (c), the annual assessment imposed by subdivision (b) shall be

(1) In the total amount of two hundred dollars ($200) for a manufacturer or wholesaler, for all his places of business in this state, who regularly employs an average of at least 20 but less than 50 full-time employees annually and is engaged in a business activity in this state of selling one or more of the following.

(i) Those "beverages" defined in subdivision (a) of Section 24380 of the Health and Safety Code.

(ii) Noncarbonated soft drinks, excepting fruit juices, vegetable juices, and other beverages defined as food products in Section 6359

(iii) Glass, metal, plastic, or fiber containers with a capacity of less than five gallons, but not including any container which is customarily used on a repeated basis for food storage, preparation, or serving, which has a useful life of at least one year, and which is empty when sold at retail.

(iv) Container crowns or closures.

(v) Newspapers or magazines.

(vi) Household paper and paper products, including flexible packaging used to package or wrap consumer goods

(vii) Automobile or truck tires

(2) In the total amount of four hundred dollars ($400) for a manufacturer or wholesaler, for all his places of business in this state, who regularly employs an average of at least 50 but less than 100 full-time employees annually and is engaged in a business activity in this state of selling one or more of the products in paragraph (1) of subdivision (d) of this section.

(3) In the total amount of two thousand dollars ($2,000) for a manufacturer or wholesaler for all his places of business in this state who regularly employs an average of at least 100 or more full-time employees annually and is engaged in a business activity in this state of selling one or more of the products in paragraph (1) of subdivision (d) of this section.

(e) A person shall not be liable in any year for more than one assessment under this section If in any year a person is subject to an assessment under both subdivisions (a) and (b), only the larger of the two shall be required to be paid.

(f) It is not the intent of the Legislature in creating more than one assessment schedule for manufacturers and wholesalers by this

section to judge the relative contribution of such manufacturers and wholesalers to the solid waste stream.

39102. Tangible personal property, for purposes of subdivision (b) of Section 39101, includes all tangible personal property except:

(a) Gas, electricity, and water delivered through mains, lines, pipes, or channels to purchasers

(b) Food and food products for human consumption sold in bulk form and not packaged or subpackaged in individual containers, packages, or units, of a type or size suitable for sale to consumers purchasing in the ordinary course of retail marketing.

(c) Fertilizer, seeds, annual plants, any form of animal life, and animal feed, sold for resale or use in the agricultural food industry.

39103. There are exempted from the assessments imposed by this part persons or transactions that this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

CHAPTER 3 ADMINISTRATION

39201. The board may collect the assessment imposed under Chapter 2 at the time of issuing a seller's permit under the Sales and Use Tax Law, or at any other time it may fix. The board may condition the issuance of a seller's permit upon payment of the assessment.

39202 The provisions of Chapter 5 (commencing with Section 6451), excepting Article 1.1 thereof, Chapter 6 (commencing with Section 6701), Chapter 7 (commencing with Section 6901), Chapter 8 (commencing with Section 7051) and Chapter 10 (commencing with Section 7151) of Part I of Division 22 shall apply to the assessments imposed under, and to the administration of this part. When the term "retailer" is used therein it shall be construed to include seller, permitholder, manufacturer and wholesaler for the purposes of this part.

39250. Moneys collected pursuant to this part shall be deposited in the State Treasury to the credit of the State Litter Control, Recycling, and Resource Recovery Fund.

39251. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part or be used as provided by law.

SEC. 8. Money in the State Litter Control, Recycling, and Resource Recovery Fund is continuously appropriated for expenditure by the State Solid Waste Management Board during the period beginning July 1, 1978, and ending June 30, 1983, as specified in Title 7.8 (commencing with Section 68000) of the Government Code.

SEC. 9. (a) Commencing on the date on which this act is chaptered, the Legislative Analyst shall analyze the operation of this act. Such analysis shall include, but shall not be limited to, an analysis of the following:

(1) Effectiveness of the provisions of this act in reducing litter throughout the state.

(2) The increase in volume of the materials recycled as a result of this act

(3) The reduction in energy use as a result of this act

(4) The reduction in the disposal of solid waste onto the land, into the atmosphere, or into the waters of the state as a result of this act.

(b) On or before January 1, 1980, and annually thereafter, the Legislative Analyst shall submit to the Governor and the Legislature a report of his findings and recommendations.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because self-financing authority is provided in this act to cover such costs.

SEC. 11 This act shall remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date

SEC. 12. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect, however, it shall become operative on January 1, 1978.

CHAPTER 1162

An act making an appropriation to the State Department of Health, relating to health personnel training programs

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1 The sum of two million four hundred thirty-two thousand five hundred dollars ($2,432,500) is hereby appropriated from the General Fund to the State Department of Health for expenditure during the 1978–79, 1979–80, 1980–81, and 1981–82 fiscal years in accordance with the following schedule:

Schedule

(a) For contracts with accredited medical schools, with programs which train primary care physician's assistants, with programs which train primary care nurse practitioners, and with hospitals or other health care delivery systems located in California, which meet the standards of the Health Manpower Policy Commission established pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code as follows:

(1) For continuation of existing program $1,927,500

(2) For expansion of existing program..... ....$ 405,000

(b) For the period from July 1, 1978, to September 30, 1982, for insuring proper administration and evaluation of training contracted

for pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code $100,000

CHAPTER 1163

An act to add Chapter 12 (commencing with Section 4800) to Part 2 of Division 4 of, and to repeal Sections 741 and 744 of, the Public Resources Code, relating to forest resources, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

I am reducing the appropriation contained in Section 4 of Assembly Bill No 452 from $450,000 to $400,500 by reducing subsection (a) from $150,000 to $133,500 and subsection (b) from $300,000 to $267,000

These funds would be used for hiring a liaison officer I do not believe this position is necessary at this time

With this reduction, I approve Assembly Bill No 452

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 741 of the Public Resources Code is repealed.

SEC. 2 Section 744 of the Public Resources Code is repealed.

SEC. 3. Chapter 12 (commencing with Section 4800) is added to Part 2 of Division 4 of the Public Resources Code, to read:

CHAPTER 12. FOREST RESOURCES ASSESSMENT AND POLICY ACT OF 1977

4800. This chapter shall be known and may be cited as the Forest Resources Assessment and Policy Act of 1977.

4801. The Legislature finds and declares as follows:

(a) The forest resources of California provide vitally important economic and environmental benefits to the people of California.

(b) Demands on forest resources in California are expected to increase significantly in the next decades.

(c) Forest resources in California are limited.

(d) Better use of forest resources can result where there is good information as to anticipated needs and constraints and the potentials for meeting such needs consistent with Section 4513 of the Public Resources Code.

(e) The necessary information is not now available and should be developed.

(f) It is the intent of the Legislature to provide for the assessment of California's forest resources.

4802. As used in this chapter

(a) "Board" means State Board of Forestry.

(b) "Resources Planning Act' means the Forest and Rangelands Renewable Resources Planning Act of 1974 (16 U.S.C. 1601–1610).

(c) "Assessment" means the forest resource assessment and analysis developed pursuant to Section 4803.

(d) "Director" means the Director of Forestry

(e) "Forest resources" means those uses and values associated with, attainable from, or closely tied to, forest land, including fish, range, recreation, timber, watershed, wilderness, and wildlife.

(f) "Forest land" means timberland defined pursuant to subdivision (h), and other lands which have been withdrawn from timber production, such as state parks, national parks, and wilderness areas.

(g) "Timberland" means land on which is growing a significant stand of trees of commercial species, or potential commercial species, either in public or private ownership or which is generally capable of maintaining a stand of trees in perpetuity and not withdrawn or otherwise devoted to uses other than timber production

(h) "Timber" means wood fiber of commercial or potential commercial species growing on timberland as defined in subdivision (g).

4803 (a) Under policy guidance from the board and in consultation with the Secretary for Resources, the director shall prepare and submit to the board and the Secretary for Resources, a forest resource assessment and analysis not later than July 1, 1979, and shall present an updated assessment by January 1, 1987, and by January 1 of each fifth year thereafter The assessment and analysis shall recognize distinct differences in ownership and management of forest resources in California between the various public and the various private owners and shall include, but not be limited to, the following:

(1) An assessment and analysis of the supply and availability of the various present and potential forest resources of the state, including limits to such supplies imposed by natural site conditions, such as slope stability and erosion hazard, or by governmental restriction, such as special zoning Among resource potentials to be evaluated are opportunities to.

(i) Improve and rehabilitate the understocked timberland in California and to more fully utilize the productive potential for growing and harvesting timber.

(ii) Improve wood fiber utilization and wood product recycling

(iii) Salvage trees infested with insects and diseases on timberland.

(iv) Improve the management of forest wildlife and wildlife habitat within the state

(v) Increase the quantity and quality of recreation available in the state.

(vi) Improve and rehabilitate forest range areas within the state

(vii) Increase the potential to use wood fiber from timberland as an economically viable source of fuel for energy production.

(2) An analysis of present and anticipated demand for various forest resources in the state

(3) A description and evaluation of current state programs and responsibilities in cooperative state-federal forestry programs, and management of state and local public forest and related lands

(4) A discussion of important policy considerations, laws, regulations, management responsibilities, and other factors expected to influence and significantly affect the use, ownership, and management of forest and range resources.

(b) In preparing the assessment, the director, under policy guidance of the board, shall solicit the cooperation of, and information collected by, public and private organizations, federal forest resource agencies, state agencies concerned with forest resources, county planning and taxation agencies, and state-supported forest resource research agencies.

(c) For the purpose of assisting the director and the board in preparing the assessment and its revisions, the board may appoint such advisory committees as it deems necessary. Such committees shall consist of individuals with expertise in forest resource fields with particular emphasis on survey and program analysis, and shall include representatives of state agencies concerned with the use of forest resources

(d) In preparation of the assessment the director shall analyze the need to:

(1) Develop and maintain an effective system for the collection, analysis, and display of such data in forms that contribute to the achievement of the purposes of this chapter

(2) Identify high priority needs for completing the data base and analytical framework essential to improving the quality of future assessments.

(3) Evaluate the accuracy and completeness of existing data and of steps needed to improve the accuracy and completeness of data for future assessments.

4804 (a) Based on a review of the assessment prepared pursuant to Section 4803, and consistent with Sections 740 and 4513, the board shall prepare a forest resource policy statement.

(b) Such policy statement shall recognize distinct differences between the various public and various private owners of forest resources in the state and should include, insofar as is possible, the following:

(1) A delineation of specific needs and opportunities for promoting both public and private forest resource management programs in California.

(2) A discussion of priorities for accomplishment of program opportunities, with specified costs, results, and possible constraints on implementation

(3) An analysis of the relation of the alternative forest resource

policies to employment opportunities in California

4805. The board shall hold public hearings on the assessment and the proposed policy statement prepared pursuant to Sections 4803 and 4804.

4806. (a) The board, assisted by the director, shall biennially determine state needs for forest management research and recommend the conduct of needed projects to the Governor and the Legislature

(b) To facilitate reporting and updating the assessment pursuant to Section 4803, the director, under guidance by the board, may prepare and implement a forest resource management information storage and retrieval program regarding forest land conditions in the state. Such program shall be coordinated and integrated to the maximum extent practicable with data storage and retrieval programs of other state and federal agencies and institutions. The director shall review existing forest resource management storage, retrieval, and analysis systems in the institutions of higher learning in this state, and insofar as the board deems desirable, may utilize such systems as a model for the state program established pursuant to this section.

4807 (a) The director shall convey the assessment and its updates to federal agencies charged with managing public land within the state

(b) To assure the availability and compatibility of data and scientific information needed for development and implementation of the assessment, the board and the director shall cooperate with the United States Department of Agriculture in conducting surveys and analyses as provided for in the Resources Planning Act and with other federal agencies as provided by federal law

SEC. 4 The sum of four hundred fifty thousand dollars ($450,000) is hereby appropriated from the General Fund to the Department of Forestry for expenditure for the purposes of Chapter 12 (commencing with Section 4800) of Part 2 of Division 4 of the Public Resources Code, in accordance with the following schedule:

(a) One hundred fifty thousand dollars ($150,000) for expenditure during the 1977–78 fiscal year

(b) The three hundred thousand dollars ($300,000) for expenditure during the 1978–79 fiscal year

It is the intent of the Legislature that the Department of Forestry and other departments affected by this act extend a high priority to their budget requests in subsequent fiscal years for the purpose of the Forest Resources Assessment and Policy Act of 1977.

CHAPTER 1164

An act to repeal Part 6 (commencing with Section 14200) of Division 3 of Title 1 of the Corporations Code, to amend Section 274 of, and to add Division 15 (commencing with Section 31000) to, the Financial Code, and to amend Section 7480 of the Government Code, relating to business and industrial development corporations

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Part 6 (commencing with Section 14200) of Division 3 of Title 1 of the Corporations Code is repealed

SEC 2. Section 274 of the Financial Code is amended to read.

274. The State Banking Fund is continued in existence as the State Banking Fund, subject to all of the provisions of this division All expenses and salaries of the department shall be paid out of the State Banking Fund Expenses and salaries incurred in the liquidation or conservation of any bank or of any person licensed under Division 15 (commencing with Section 31000), including the compensation of employees of the department to the extent that they are engaged in such liquidation or conservation, if possible, and if advanced from the State Banking Fund, shall constitute a first charge against the assets of such bank or licensee, as the case may be

SEC. 3 Division 15 (commencing with Section 31000) is added to the Financial Code, to read

DIVISION 15 BUSINESS AND INDUSTRIAL DEVELOPMENT CORPORATIONS

CHAPTER 1 GENERAL PROVISIONS

Article 1. Short Title, Construction, and Severability

31000 This division shall be known and may be cited as the "Business and Industrial Development Corporations Law"

31001 This division shall be liberally construed to accomplish its purposes

31002 No provision of this division imposing any liability applies to any act committed in good faith in conformity with any regulation, order, or written interpretive opinion of the superintendent or any such opinion of the Attorney General, notwithstanding that such regulation, order, or written interpretive opinion may later be amended, rescinded, or repealed or be determined by judicial or other authority to be invalid for any reason

31003 In this division, unless otherwise expressly provided

(a) A reference to a statute or to a regulation includes such statute

or regulation as amended, whether before or after the effective date of this division, as well as any new statute or regulation substituted for such statute or regulation after the effective date of this division.

(b) A reference to a governmental agency or to a public officer includes any governmental agency or public officer which succeeds after the effective date of this division to substantially the same functions as those performed by such governmental agency or public officer on the effective date of this division.

31004. Except as otherwise provided in Chapter 14 (commencing with Section 31950) of this division:

(a) The provisions of the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000), Division 2, Title 1 of the Corporations Code) shall apply to any licensee which is a California nonprofit corporation, provided, however, that, whenever any provision of the General Nonprofit Corporation Law conflicts with any provision of this division or of any regulation or order issued under this division, such provision of the General Nonprofit Corporation Law shall not apply and such provision of this division or of such regulation or order issued under this division shall apply.

(b) The provisions of the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code) shall apply to any licensee other than a licensee which is a California nonprofit corporation; provided, however, that, whenever any provision of the General Corporation Law conflicts with any provision of this division or of any regulation or order issued under this division, such provision of the General Corporation Law shall not apply and such provision of this division or of such regulation or order issued under this division shall apply

31005. The provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000), Title 4 of the Corporations Code) shall apply to licensees

31006 If any provision of this division or the application thereof to any person or circumstances is held invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect other provisions or applications of this division which can be given effect without the invalid, illegal, or unenforceable provision or application, and to this end, the provisions of this division are declared to be severable

Article 2. Legislative Findings and Purposes

31020. The Legislature finds:

(a) That it is necessary to increase job opportunities in this state

(b) That promoting the establishment, growth, and expansion of business firms in this state is an efficient way to increase jobs opportunities in this state

(c) That it is appropriate to provide for the licensing and regulation of business and industrial development corporations which will provide financing assistance and management assistance

to business firms in this state

(d) That the federal government, through the Small Business Administration and other federal agencies, offers programs for providing, through such intermediaries as business and industrial development corporations, financing assistance and management assistance to business firms in this state.

(e) That, in order that this state may obtain the full benefits of such programs, it is necessary that this state provide for the licensing and regulation of business and industrial development corporations

(f) That only California corporations should be licensed to transact business as business and industrial development corporations because, compared with other types of persons, California corporations can be more effectively regulated and supervised, have greater permanency of existence, and can give better assurance of uninterrupted service

31021 (a) The purposes of this division are:

(1) To provide for the licensing and regulation of business and industrial development corporations which will provide financing assistance and management assistance to business firms in this state;

(2) To provide for the licensing and regulation of business and industrial development corporations so that such corporations will constitute state development companies for purposes of Sections 501 and 502 of the Small Business Investment Act of 1958 and eligible lending institutions for purposes of Section 7(a) of the Small Business Act

(3) To provide for the safe and sound conduct of the business of licensees

(4) To maintain the confidence of the Small Business Administration and other governmental agencies in licensees.

(b) The purposes of this division, as set forth in subdivision (a), constitute standards which the superintendent shall observe in administering the provisions of this division

Article 3. Definitions

31030 Subject to additional definitions contained in this division which are applicable to specific provisions of this division and unless the context otherwise requires, the definitions in this article apply throughout this division

31031. "Act" includes omission

31032. "Affiliate", when used with respect to a specified person, means any person (other than a natural person) controlling, controlled by, or under common control with, such specified person, directly or indirectly through one or more intermediaries.

31033. "Business day" means any day other than (a) Saturday, (b) Sunday, and (c) any other day which is specified or provided for as a holiday in the Government Code

31034 "Business firm" means any person which transacts business on a regular and continual basis, with respect to the

transacting of such business

31035. "Business firm in this state" means:

(a) Any person which transacts business on a regular and continual basis at one or more places of business in this state, with respect to the transacting of such business at such places of business; or

(b) Any person which proposes to establish one or more places of business in this state and to transact business on a regular and continual basis at such places of business, with respect to the establishment of such places of business and the transacting of such business at such places of business.

31036. "California corporation" means:

(a) Any corporation organized under the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code) or any predecessor statute; provided, however, that "California corporation" does not include any corporation which is a close corporation, as defined in Section 158 of the Corporations Code; or

(b) Any corporation organized under Part 6 (commencing with Section 14200), Division 3, Title 1 of the Corporations Code, as added by Chapter 985 of the Statutes of 1975; or

(c) Any California nonprofit corporation.

31037 "California nonprofit corporation" means any corporation organized under the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000), Division 2, Title 1 of the Corporations Code) or any predecessor statute.

31038. "Control", when used with respect to a specified person, means possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such specified person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or nonmanagement services), or otherwise; provided, however, that no natural person shall be deemed to control a person solely on account of being a director, officer, or employee of such person For purposes of this division, any person who, directly or indirectly, owns of record or beneficially, holds with power to vote, or holds proxies with discretionary authority to vote, 20 percent or more of any class of the then outstanding voting securities issued by a corporation shall be rebuttably presumed to control such corporation.

31039 "Controlling person", when used with respect to a specified person, means any person who controls such specified person, directly or indirectly through one or more intermediaries

31040 "Corporate name" means the name of a corporation as set forth in the articles of incorporation of such corporation.

31041. "Financial institution" means any commercial bank, trust company, savings and loan association, credit union, industrial loan company, insurance company, or person engaged in the business of lending money.

31042. "Insolvent", when used with respect to any person, means

a person who has ceased to pay his debts in the ordinary course of business, who cannot pay his debts as they become due, or whose liabilities exceed his assets.

31043 To "issue", when used with respect to any regulation or order, includes to adopt, amend, repeal, or rescind

31044. "License" means a license issued under this division authorizing a California corporation to transact business as a business and industrial development corporation.

31045. "Licensee" means a California corporation which is licensed under this division

31046. "Officer" means:

(a) When used with respect to a corporation, any person appointed or designated as an officer of such corporation by or pursuant to applicable law or the articles of incorporation or bylaws of such corporation or any person who performs with respect to such corporation functions usually performed by an officer of a corporation; and

(b) When used with respect to a specified person other than a natural person or a corporation, any person who performs with respect to such specified person functions usually performed by an officer of a corporation with respect to such corporation

31047. "Principal shareholder", when used with respect to a corporation, means any person who owns, directly or indirectly, of record or beneficially, securities representing 10 percent or more of the voting power of such corporation

31048 To "provide financing assistance" to a person includes:

(a) To lend money or otherwise extend credit to such person;

(b) To purchase securities issued by such person, either directly or indirectly through an underwriter; and

(c) To lease property to such person.

31049. To "provide management assistance" to a person includes.

(a) To provide management or technical advice to such person; and

(b) To provide management or technical services to such person.

31050. "Order" means any approval, consent, authorization, exemption, denial, prohibition, or requirement applicable to a specific case issued by the superintendent. "Order" includes any condition of a license and any agreement made by any person with the superintendent under this division

31051. "Person" means any natural person, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, government, agency of any government, or any other organization, provided, however, that "person", when used with respect to acquiring control of or controlling a specified person, includes any combination of two or more persons acting in concert.

31052 "Regulation" means any published regulation, rule, or standard of general application issued by the superintendent.

31053 "Security" has the meaning set forth in Section 25019 of

the Corporations Code

31054. "Subsidiary", when used with respect to a specified person other than a natural person, means any person other than a natural person controlled by such specified person, directly or indirectly through one or more intermediaries

31055 "Superintendent" means the Superintendent of Banks or any person to whom the Superintendent of Banks delegates the authority to act for him in the particular matter

31056 "Voting power" has the meaning set forth in Corporations Code Section 194 5

CHAPTER 2 ADMINISTRATION

31100. The superintendent shall administer the provisions of this division.

31101. (a) The superintendent may from time to time issue such regulations and orders as are in his opinion necessary to carry out the provisions and purposes of this division.

(b) Regulations and orders issued under this division may, among other things, define any term used in this division, including (but not limited to) the term "unsafe or unsound act", as well as any term not used in this division.

(c) For purposes of regulations and orders issued under this division, the superintendent may classify persons, transactions, and other matters within his jurisdiction, and may prescribe different regulations or orders for different classes.

(d) The superintendent may waive any provision of any regulation or order issued under this division in any case where in his opinion such provision is not necessary in the public interest.

31102 Whenever the superintendent issues an order or license under this division, he may impose such conditions as are in his opinion necessary to carry out the provisions and purposes of this division

31103. Every final order, decision, license, or other official act of the superintendent under this division is subject to judicial review in accordance with law

31104 In any proceeding under this division.

(a) The burden of proving that an application should be approved is upon the applicant

(b) The burden of proving an exemption or an exception from a definition is upon the person claiming such exemption or such exception from a definition

31105. No provision of this division shall be construed to require by implication that the superintendent hold a hearing on any matter

31106 No provision of this division shall be construed to require by implication that the superintendent make written findings on any matter

31107 Any application filed with the superintendent under this division or under any regulation or order issued under this division

shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires by regulation or order) be verified in such manner, as the superintendent may by regulation or order require.

31108. In determining whether to approve any application filed under this division or under any regulation or order issued under this division, the superintendent may consider proposals made by the applicant, including (but not limited to) proposals to appoint officers, sell securities, or obtain financing; and, if in the opinion of the superintendent it is probable that such applicant will be able to implement any such proposal, the superintendent may make findings on the basis of such proposal, provided, however, that, whenever the superintendent approves an application on the basis, in whole or in part, of a proposal made by the applicant, the superintendent shall impose upon such approval appropriate conditions requiring that such applicant implement such proposal within such period of time as the superintendent may specify.

31109. The superintendent may honor applications from interested persons for interpretive opinions regarding any provision of this division or of any regulation or order issued under this provision.

31110 (a) The superintendent may (1) make such public or private investigations within or outside this state as he deems necessary to determine whether to approve any application filed with him under this division or under any regulation or order issued under this division, to determine whether any person has violated or is about to violate any provision of this division or of any regulation or order issued under this division, to aid in the enforcement of any provision of this division or of any regulation or order issued under this division, or to aid in the issuing of regulations or orders under this division, and (2) publish information concerning any violation of any provision of this division or of any regulation or order issued under this division

(b) For purposes of any investigation, examination, or other proceeding under this division, the superintendent may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the superintendent deems relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the superintendent, may issue to such person an order requiring him to appear before the superintendent, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt.

31111. Notwithstanding the fact that the superintendent permits any licensee, any affiliate of such licensee, or any governmental

agency to inspect or make copies of any record relating to such licensee or to any director, officer, employee, or affiliate of such licensee or that the superintendent provides any such record, or a copy thereof, to any such person, any provision of Section 6254 or 6255 of the Government Code which would, but for such fact, apply to such record, shall continue to apply to such record.

31112 The superintendent may refer such evidence as is available concerning any violation of this division or of any regulation or order issued under this division which constitutes a crime to the district attorney of the county in which such violation occurred, who may, with or without such a reference, institute appropriate criminal proceedings.

31113 Before any applicant for a license is issued a license, such applicant and each affiliate of such applicant shall file, and each person who becomes an affiliate of a licensee shall, not less than 30 days after becoming an affiliate of such licensee, file, with the superintendent, in such form as he may by regulation or order require, an irrevocable consent appointing the superintendent and his successor from time to time in office to be such person's attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against such person, or his successor, executor, or administrator, which arises under this division or under any regulation or order issued under this division after such consent has been filed, with the same force and validity as if served personally on such person Service may be made by leaving a copy of the process at any office of the superintendent, but such service is not effective unless (a) the party making such service, who may be the superintendent, forthwith sends notice of such service and a copy of the process by registered or certified mail to the party served at his last address on file with the superintendent, and (b) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

31114 Whenever any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this division or by any regulation or order issued under this division, whether or not he has filed a consent to service of process under Section 31113, and if personal jurisdiction over him cannot otherwise by obtained in this state, such conduct shall be considered equivalent to his appointment of the superintendent and his successor from time to time in office to be his attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against him, or his successor, executor, or administrator, which grows out of such conduct and which is brought under this division or under any regulation or order issued under this division, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in any office of the

superintendent, but such service is not effective unless (a) the party making such service, who may be the superintendent, forthwith sends notice of such service and a copy of the process by registered or certified mail to the party served at his last known address or takes other steps which are reasonably calculated to give actual notice, and (b) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows

31115 (a) Fees shall be paid to, and collected by, the superintendent, as follows:

(1) The fee for filing with the superintendent an application for a license shall be two thousand dollars ($2,000).

(2) The fee for filing with the superintendent an application for approval to acquire control of a licensee shall be one thousand dollars ($1,000)

(3) The fee for filing with the superintendent an application for approval for a licensee to merge with another corporation, an application for approval for a licensee to purchase all or substantially all of the business of another person, or an application for approval for a licensee to sell all or substantially all of its business or of the business of any of its offices to another licensee, shall be one thousand dollars ($1,000); provided, however, that whenever two or more such applications relating to the same merger, purchase, or sale are filed with the superintendent, the fee for filing each application shall be the quotient determined by dividing one thousand dollars ($1,000) by the number of the applications

(4) The fee for filing with the superintendent an application for approval to establish, relocate, or close an office of a licensee shall be one hundred dollars ($100), provided, however, that, whenever a licensee applies for approval to establish an office by means of merging another licensee or by means of purchasing all or substantially all of the business of another licensee or of any office of another licensee, no fee shall be charged for the filing for such application

(5) The fee for issuing a license shall be twenty-five dollars ($25).

(6) Each person which is licensed under this division on June 1st of any year shall pay, on or before the following July 1st, a fee of two thousand dollars ($2,000)

(7) Whenever the superintendent examines any licensee or any affiliate of a licensee, such licensee shall pay, within 10 days after receipt of a statement from the superintendent, a fee of two hundred dollars ($200) per day for each examiner engaged in such examination plus, in case it is necessary for any examiner engaged in such examination to travel outside this state, the travel expenses of such examiner

(b) (1) Each fee for filing an application with the superintendent shall be paid at the time when such application is filed with the

superintendent

(2) No fee for filing an application with the superintendent shall be refundable, regardless of whether such application is approved, denied, withdrawn, or abandoned

CHAPTER 3 LICENSING

31150 (a) Except as otherwise provided in subdivision (b), no person transacting business in this state, other than a licensee, shall use any name or title which indicates that it is a business and industrial development corporation or otherwise represent that it is a business and industrial development corporation or that it is a licensee

(b) Any California corporation which proposes to apply for a license or which has applied for a license, may, before being issued a license, perform, under a name or title which indicates that it is a business and industrial development corporation, such acts as may be necessary (1) to apply for and obtain such license and (2) otherwise to prepare to commence transacting business as a licensee, provided, however, that no such corporation shall represent that it is a licensee

31151 No person other than a California corporation may apply for or be issued a license

31152 If the superintendent finds, with respect to an application for a license

(a) That the applicant has net worth in an amount which is not less than five hundred thousand dollars ($500,000) and which is adequate for the applicant to transact business as a business and industrial development corporation,

(b) That the applicant has lendable funds in an amount which is not less than five hundred thousand dollars ($500,000) and which is adequate for the applicant to transact business as a business and industrial development corporation,

(c) That the applicant has, in addition to the requirements of subdivision (b), financial resources in an amount which is adequate for the applicant to pay its expenses in transacting business as a business and industrial development corporation for a period of not less than three years,

(d) That the directors, officers, and controlling persons of the applicant are each of good character and sound financial standing, that the directors and officers of the applicant are each competent to perform their functions with respect to the applicant, and that the directors and officers of the applicant are collectively adequate to manage the business of the applicant as a business and industrial development corporation.

(e) That it is reasonable to believe that the applicant, if licensed, will comply with all applicable provisions of this division and of any regulation or order issued under this division;

(f) That the applicant has reasonable promise of successful operation as a business and industrial development corporation.

and

(g) That the licensing of the applicant will promote the public convenience and advantage:

the superintendent shall approve the application If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

31153. Before any applicant for a license is issued a license, each affiliate of such applicant shall file and each person who becomes an affiliate of a licensee shall, not less than 30 days after becoming an affiliate of such licensee, file, with the superintendent, in such form as he may by regulation or order require, an agreement that such person shall comply with all applicable provisions of this division and of any regulation or order issued under this division.

31154. Whenever any application for a license has been approved and all conditions precedent to the issuance of such license have been fulfilled, the superintendent shall issue a license to the applicant.

31155. No license shall be transferable or assignable.

31156. Each licensee shall post its license in a conspicuous place at its head office

31157 No licensee shall represent that it is sponsored, recommended, or approved by, or that its abilities or qualifications have in any respect been passed upon by, the superintendent. Nothing in this section shall be deemed to prohibit a licensee from stating that it is licensed if the effect of such license is not misrepresented.

31158. (a) The fact that a California corporation is licensed under any law of this state (other than this division) or under any law of the United States shall not preclude such corporation from applying for or being issued a license under this division unless the transaction of business by such corporation as a licensee under such other law of this state or such law of the United States would violate any provision of this division or of any regulation or order issued under this division or would be contrary to the purposes of this division.

(b) The fact that a California corporation is licensed under this division shall not preclude such corporation from applying for or being issued a license under any other law of this state or under any law of the United States unless the transaction of business by such corporation as a licensee under such other law of this state or such law of the United States would violate any provision of this division or of any regulation or order issued under this division or would be contrary to the purposes of this division.

CHAPTER 4 CORPORATE MATTERS

Article 1. Name

31200. The corporate name of each licensee shall include the phrase "California business and industrial development corporation"

31201. No licensee shall, except with the prior approval of the superintendent, transact business under any name other than its corporate name

Article 2 Board of Directors

31210. The board of directors of each licensee shall consist of not less than nine directors.

31211. The board of directors of each licensee shall hold a meeting not less frequently than once each calendar quarter.

Article 3 Securities

31220 Notwithstanding any other law of this state, but subject to the provisions of Section 31550.

(a) Any commercial bank or trust company organized under the laws of this state may, with the prior approval of the superintendent, acquire and hold securities issued by a licensee; provided, however, that the aggregate amount of securities issued by licensees which are held by such commercial bank or trust company shall not at any time exceed 2½ percent of the capital and surplus of such commercial bank or trust company. This subdivision shall not apply to any loan or other extension of credit made by a commercial bank organized under the laws of this state to a licensee in accordance with the Banking Law (Division 1 (commencing with Section 99)).

(b) Any savings and loan association organized under the laws of this state may, with the prior approval of the Savings and Loan Commissioner, acquire and hold securities issued by a licensee; provided, however, that the aggregate amount of securities issued by licensees which are held by such savings and loan association shall not at any time exceed ½ percent of the total outstanding loans of such savings and loan association.

(c) Any insurance company admitted to transact insurance business in this state may, with the approval of the Insurance Commissioner, acquire and hold securities issued by a licensee, provided, however, that the aggregate amount of securities issued by licensees which are held by such insurance company shall not at any time exceed 2½ percent of the unassigned surplus of such insurance company.

(d) Any public utility licensed or regulated by the Public Utilities Commission may, with the approval of the Public Utilities Commission, acquire and hold securities issued by a licensee,

provided, however, that the aggregate amount of securities issued by licensees which are held by such public utility company shall not at any time exceed ½ percent of the total assets of such public utility company

Article 4 Distributions to Shareholders

31230 In this article, "distribution to its shareholders" has the meaning set forth in Corporations Code Section 166

31231. No licensee shall, except with the prior approval of the superintendent, make, or obligate itself to make, any distribution to its shareholders.

31232 If the superintendent finds, with respect to an application for approval for a licensee to make, or to obligate itself to make, a distribution to its shareholders:

(a) That for the applicant to make, or to obligate itself to make, the distribution will not endanger the applicant's ability to provide financing assistance and management assistance to business firms in this state; and

(b) That for the applicant to make, or to obligate itself to make, the distribution will not be unsafe or unsound; the superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

31233. Notwithstanding the provisions of Section 31232, unless an application for approval for a licensee to make, or to obligate itself to make, a distribution to its shareholders is approved, denied, withdrawn, or abandoned within a period of 45 days after such application is filed with the superintendent or, if the applicant consents to an extension of the period, within such extended period, such application shall be deemed to be approved by the superintendent as of the first day after such period of 45 days or such extended period, as the case may be.

For purposes of this section, an application for approval for a licensee to make, or to obligate itself to make, a distribution to its shareholders shall be deemed to be filed with the superintendent when such application, containing all the information required by the superintendent and otherwise complying with Section 31107, is received by the superintendent.

CHAPTER 5. OFFICES

Article 1. General Provisions

31300. Each licensee shall maintain not less than one office in this state

31301. No licensee shall maintain an office at any place outside this state

31302. Each office of a licensee shall be located in a place which is reasonably accessible to the public and shall, unless the

superintendent approves otherwise, be open for the transaction of business during normal business hours on each business day

31303 Each licensee shall post in a conspicuous place at each of its offices a sign which bears the corporate name of such licensee

31304. Each licensee shall maintain telephone service at each of its offices and shall maintain a telephone listing under its corporate name for each of its offices.

31305. Each licensee shall maintain at each of its offices personnel who are competent to conduct the business of such office.

Article 2 Establishing, Relocating, and Closing Offices

31320 No licensee shall, except with the prior approval of the superintendent, establish, relocate, or close any office.

31321. If the superintendent finds, with respect to an application for approval to establish an office:

(a) That the applicant has net worth in a sum which is adequate for it to transact business (including the business of the proposed office);

(b) That the applicant has lendable funds in an amount which is adequate for it to transact business (including the business of the proposed office);

(c) That the applicant has, in addition to the requirements of subdivision (b), financial resources in an amount which is adequate for the applicant to pay its expenses in transacting business (including the business of the proposed office) for a period of not less than three years;

(d) That the proposed office will be reasonably accessible to the public;

(e) That it is reasonable to believe that the applicant will operate the proposed office in compliance with all applicable provisions of this division and of any regulation or order issued under this division;

(f) That it will not be unsafe or unsound for the applicant to establish and operate the proposed office;

(g) That the proposed office has reasonable promise of successful operation; and

(h) That the establishment of the proposed office will promote the public convenience and advantage;

The superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

31322. If the superintendent finds, with respect to an application to relocate an office:

(a) That the office at its proposed location will be reasonably accessible to the public;

(b) That it is reasonable to believe that the applicant will operate the office at its proposed location in compliance with all applicable provisions of this division and of any regulation or order issued under this division,

(c) That it will not be unsafe or unsound for the applicant to relocate the office; and

(d) That the relocation of the office will not be detrimental to the public convenience and advantage, or, if the relocation of the office would be detrimental to the public convenience and advantage, that the relocation of the office is necessary in the interests of the safety and soundness of the applicant; the superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

31323. If the superintendent finds, with respect to an application for approval to close an office:

(a) That it will not be unsafe or unsound for the applicant to close the office; and

(b) That the closing of the office will not be detrimental to the public convenience and advantage; or, if the closing of the office would be detrimental to the public convenience and advantage, that the closing of the office is necessary in the interests of the safety and soundness of the applicant, The superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

CHAPTER 6. TRANSACTION OF BUSINESS

31400. (a) Each licensee shall transact its business in a safe and sound manner and shall maintain itself in a safe and sound condition.

(b) No licensee shall commit any unsafe or unsound act.

31401. No licensee shall engage in any business other than:

(a) The business of providing financing assistance and management assistance to business firms in this state;

(b) The business of a state development company in accordance with all applicable provisions of the Small Business Investment Act of 1958 and of the regulations of the Small Business Administration;

(c) The business of a local development company in accordance with all applicable provisions of the Small Business Investment Act of 1958 and of the regulations of the Small Business Administration; and

(d) The business of a small business investment company in accordance with all applicable provisions of the Small Business Investment Act of 1958 and of the regulations of the Small Business Administration

31402. Each licensee shall use its best efforts:

(a) To provide financing assistance to business firms in this state in cooperation with the Small Business Administration pursuant to Section 7(a) of the Small Business Act;

(b) To obtain loans from the Small Business Administration pursuant to Sections 501 and 502 of the Small Business Investment Act of 1958; and

(c) Otherwise to cooperate with, and meet the requirements of, the Small Business Administration for the purpose of providing

financing assistance and management assistance to business firms in this state.

31403. No licensee shall provide financing assistance or management assistance to any person other than a business firm in this state.

31404. No licensee shall provide financing assistance or management assistance for use outside this state.

31405 Except as otherwise provided in subdivisions (b), (c), and (d) of Section 31406·

(a) No licensee shall provide financing assistance or management assistance to any business firm in this state, the primary business of which is to provide financing assistance or management assistance.

(b) No licensee shall provide financing assistance to any business firm in this state for the purpose of providing financing assistance to other persons or discharging, in whole or in part, any obligation incurred for such purpose

31406. No licensee shall, either by itself or in concert with any of its directors, officers, principal shareholders, or affiliates, any other licensee, or any of the directors, officers, principal shareholders, or affiliates of any other licensee, acquire or hold control of any business firm, except as follows.

(a) Any licensee which has provided financing assistance to a business firm may, if and to the extent necessary to protect its interests as a creditor of, or investor in, such business firm, acquire and hold control of such business firm; provided, however, that such licensee shall divest itself of such control as soon as practicable and in any event within three years after acquiring such control or such longer period as the superintendent may approve.

(b) Any licensee may, with the prior approval of the superintendent, acquire and hold control of a corporation which is licensed as a small business investment company under the Small Business Investment Act of 1958.

(c) Any licensee may, with the prior approval of the superintendent, acquire and hold control of a corporation which is licensed as a personal property broker under Division 9 (commencing with Section 22000).

(d) Any licensee may, with the prior approval of the superintendent, acquire and hold control of a corporation which transacts business as a local development company in accordance with all applicable provisions of the Small Business Investment Act of 1958 and of the regulations of the Small Business Administration.

31407 No licensee shall provide financing assistance to any business firm in this state unless such business firm shall have first applied to not less than one bank in this state for a loan in substantially the same amount as such financing assistance and such application shall have been denied.

31408. No licensee shall, except with the prior approval of the superintendent, guarantee the debt of any other person or otherwise lend its credit to any other person; provided, however, that,

whenever a licensee sells to another person an obligation to pay money, which obligation is owned by such licensee, such licensee may guarantee the payment of such obligation

31409. No licensee shall, except with the prior approval of the superintendent, provide a lien or security interest in any of its property for the purpose of securing an obligation of, or an obligation incurred for the benefit of, any other person

CHAPTER 7. RECORDS, REPORTS, AND EXAMINATIONS

31500 Each licensee shall adopt as its fiscal year the period from July 1st to and including the following June 30th

31501. Each licensee shall make and keep such books, accounts, and other records in such form and in such manner as the superintendent may by regulation or order require All records so required shall be kept at such place and shall be preserved for such time as the superintendent may by regulation or order specify

31502. No licensee shall, except with the prior approval of the superintendent, enter or carry on its books or records any asset at a valuation exceeding the actual cost of such asset to such licensee.

31503. The superintendent may by order require a licensee to write down any asset on its books and records to a valuation which represents its then value

31504. Each licensee shall, not more than 90 days after the close of each of its fiscal years or within such longer period as the superintendent may by regulation or order specify, file with the superintendent an audit report containing.

(a) Financial statements (including balance sheet, statement of income or loss, statement of changes in capital accounts, and statement of changes in financial position or, in the case of a licensee which is a California nonprofit corporation, comparable financial statements) for or as of the end of such fiscal year, prepared with audit by an independent certified public accountant or an independent public accountant in accordance with generally accepted accounting principles;

(b) Report, certificate, or opinion of such independent certified public accountant or independent public accountant, stating that such financial statements were prepared in accordance with generally accepted accounting principles; and

(c) Such other information as the superintendent may by regulation or order require.

31505. Each California corporation which is a licensee on June 30th of any year shall, on or before the following January 1st, file with the Legislature a report which shall be in such form and shall contain such information as the superintendent may by regulation or order require or as the Legislature may require.

31506. Each licensee, each director, officer, and employee of a licensee, and each affiliate of a licensee shall file with the superintendent such reports as and when the superintendent may by

regulation or order require. Each such report shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires by regulation or order) be verified in such manner, as the superintendent may by regulation or order require

31507. (a) The superintendent shall examine each licensee not less frequently than once each calendar year

(b) The superintendent may at any time examine any licensee or any affiliate of a licensee.

(c) The directors, officers, and employees of any licensee or of any affiliate of a licensee being examined by the superintendent and any other person having custody of any of the books, accounts, or records of such licensee or of such affiliate shall exhibit to the superintendent, on request, any or all of the books, accounts, and other records of such licensee or of such affiliate and shall otherwise facilitate such examination so far as it may be in their power to do so.

(d) The superintendent may, if in his opinion it is necessary in the examination of any licensee or of any affiliate of a licensee, retain any certified public accountant, attorney, appraiser, or other person to assist him, and such licensee shall pay, within 10 days after receipt of a statement from the superintendent, the fees of such person

31508. (a) No licensee shall, except with the prior approval of the superintendent, cause or permit any other person to make or keep any of its books, accounts, or other records.

(b) In case any person other than a licensee makes or keeps any of the books, accounts, or other records of such licensee, the provisions of this division and of any regulation or order issued under this division shall apply to such person with respect to the performance of such services and with respect to such books, accounts, and other records to the same extent as if such person were such licensee.

(c) In case any person other than an affiliate of a licensee makes or keeps any of the books, accounts, or other records of such affiliate, the provisions of this division and of any regulation or order issued under this division shall apply to such person with respect to such books, accounts, and other records to the same extent as if such person were such affiliate.

31509. The superintendent may publish any report filed with him under this division or under any regulation or order issued under this division

CHAPTER 8. ACQUISITION OF CONTROL

31550 No person shall, except with the prior approval of the superintendent, acquire control of a licensee

31551 If the superintendent finds, with respect to an application for approval to acquire control of a licensee:

(a) That the applicant and the directors and officers of the

applicant are of good character and sound financial standing,

(b) That it is reasonable to believe that, if the applicant acquires control of the licensee, the applicant will comply with all applicable provisions of this division and of any regulation or order issued under this division; and

(c) That the applicant's plans, if any, to make any major change in the business, corporate structure, or management of the licensee are not detrimental to the safety and soundness of the licensee or to the public convenience and advantage; The superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

31552. The superintendent may, by such regulations or orders as he deems necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any person or transaction or class of persons or transactions, if he finds such action to be in the public interest and that the regulation of such persons or transactions is not necessary for the purposes of this division

CHAPTER 9. MERGER AND PURCHASE OR SALE OF BUSINESS

31600. In this chapter

(a) "Acquiring licensee" means:

(1) In the case of a merger, the licensee which is the surviving corporation,

(2) In the case of a purchase or sale, the licensee which is the purchaser.

(b) "Disappearing corporation" has the meaning set forth in Section 165 of the Corporations Code.

(c) "Surviving corporation" has the meaning set forth in Section 190 of the Corporations Code.

31601. No licensee shall merge with any other corporation unless:

(a) In case such licensee is the surviving corporation, such merger shall have first been approved by the superintendent;

(b) In case such licensee is a disappearing corporation, the surviving corporation is a licensee and such merger shall have first been approved by the superintendent.

31602. No licensee shall purchase all or substantially all of the business of any other person unless such purchase shall have first been approved by the superintendent.

31603. No licensee shall sell all or substantially all of its business or of the business of any of its offices to any other person unless such other person is a licensee and such sale shall have first been approved by the superintendent.

31604. If the superintendent finds, with respect to an application for approval of a merger, purchase, or sale:

(a) That the merger, purchase, or sale will be safe and sound with respect to the acquiring licensee;

(b) That it is reasonable to believe that, upon consummation of the merger, purchase, or sale, the acquiring licensee will comply with all applicable provisions of this division and of any regulation or order issued under this division; and

(c) That the merger, purchase, or sale will not be detrimental to the public convenience and advantage, or, if the merger, purchase, or sale would be detrimental to the public convenience and advantage, that it is necessary in the interests of the safety and soundness of any of the parties to it; the superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, he shall deny the application.

31605 The superintendent may, by such regulations or orders as he deems necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any person or transaction or class of persons or transactions, if he finds such action to be in the public interest and that the regulation of such persons or transactions is not necessary for the purposes of this division

CHAPTER 10. VOLUNTARY SURRENDER OF LICENSE

31650. Any licensee may surrender its license by filing with the superintendent such license and a report which shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires by regulation or order) be verified in such manner, as the superintendent may by regulation or order require.

31651. (a) Except as otherwise provided in subdivision (b), a voluntary surrender of a license shall be effective on the 30th day after such license and the report called for in Section 31650 are filed with the superintendent or on such earlier date as the superintendent may by order specify

(b) If a proceeding to revoke or suspend a license is pending at the time when such license and the report called for in Section 31650 are filed with the superintendent or if a proceeding to revoke or suspend a license or to impose conditions upon the surrender of a license is instituted before the 30th day after such license and the report called for in Section 31650 are filed with the superintendent, the voluntary surrender of such license shall become effective at such time and upon such conditions as the superintendent may by order specify.

CHAPTER 11. ENFORCEMENT

31700 In this chapter, unless the context otherwise requires:

(a) "Office with a licensee" means the position of director, officer, or employee of such licensee or of any subsidiary of such licensee

(b) "Subject person", when used with respect to a licensee, means:

(1) Any controlling person or affiliate of such licensee;

(2) Any director, officer, or employee of such licensee or of any of the persons specified in paragraph (1) of this subdivision; or

(3) Any other person who participates in the conduct of the business of such licensee

31701. Whenever it appears to the superintendent that any person has violated, or that there is reasonable cause to believe that any person is about to violate, any provision of this division or of any regulation or order issued under this division, the superintendent may bring an action in the name of the people of this state in the superior court to enjoin such violation or to enforce compliance with this division or with any regulation or order issued under this division. Upon a proper showing, a restraining order, preliminary or permanent injunction, or writ of mandate shall be granted, and a receiver or a conservator may be appointed for the defendant or the defendant's assets. The court may not require the superintendent to post a bond.

31702. (a) If the superintendent finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 31150, the superintendent may order such person to cease and desist from such violation unless and until such person is issued a license.

(b) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom such order is directed may file with the superintendent an application for a hearing on such order. If the superintendent fails to commence a hearing within 15 business days after such application is filed with him (or within such longer period to which such person consents), such order shall be deemed rescinded. Upon such hearing, the superintendent shall affirm, modify, or rescind such order.

31703. If, after notice and a hearing, the superintendent finds:

(a) That any licensee or any subject person of a licensee has violated, is violating, or that there is reasonable cause to believe that any licensee or any subject person of a licensee is about to violate, any provision of this division or of any regulation or order issued under this division or any provision of any other applicable law; or

(b) That any licensee or any subject person of a licensee has engaged or participated, is engaging or participating, or that there is reasonable cause to believe that any licensee or any subject person of a licensee is about to engage or participate, in any unsafe or unsound act with respect to the business of such licensee;

the superintendent may order such licensee or such subject person to cease and desist from such action or violation. Such order may require such licensee or such subject person to take affirmative action to correct any condition resulting from such action or violation.

31704. (a) If the superintendent finds that any of the factors set forth in Section 31703 is true with respect to any licensee or any

subject person of a licensee and that such action or violation is likely to cause the insolvency of, or substantial dissipation of the assets or earnings of, such licensee, or is likely otherwise to seriously prejudice the interests of such licensee, the superintendent may order such licensee or such subject person to cease and desist from such action or violation. Such order may require such licensee or such subject person to take affirmative action to correct any condition resulting from such action or violation.

(b) Within 30 days after an order is issued pursuant to subdivision (a), any licensee or subject person of a licensee to whom such order is directed may file with the superintendent an application for a hearing on such order. If the superintendent fails to commence a hearing within 15 business days after such application is filed with him (or within such longer period to which such licensee or subject person consents), such order shall be deemed rescinded Upon such hearing, the superintendent shall affirm, modify, or rescind such order

31705. If, after notice and a hearing, the superintendent finds:

(a) (1) That any subject person of a licensee has violated any provision of this division or of any regulation or order issued under this division or any provision of any other applicable law;

(2) That any subject person of a licensee has engaged or participated in any unsafe or unsound act with respect to the business of such licensee, or

(3) That any subject person of a licensee has engaged or participated in any act which constitutes a breach of his fiduciary duty as a subject person; and

(b) That such act, violation, or breach of fiduciary duty has caused or is likely to cause substantial financial loss or other damage to such licensee; and

(c) That such act, violation, or breach of fiduciary duty either involves dishonesty on the part of the subject person or demonstrates the subject person's gross negligence with respect to the business of the licensee or a willful disregard for the safety and soundness of the licensee;

the superintendent may issue an order removing the subject person from his office, if any, with the licensee and prohibiting him from further participating in any manner in the conduct of the business of the licensee

31706. If, after notice and a hearing, the superintendent finds that any subject person of a licensee has, by engaging or participating in any act with respect to any financial institution which resulted in financial loss or other damage, demonstrated·

(a) (1) Dishonesty;

(2) Gross negligence with respect to the operations of such financial institution; or

(3) Willful disregard for the safety and soundness of such financial institution; and

(b) Unfitness to continue as a subject person of such licensee or

participate in the conduct of the business of such licensee; The superintendent may issue an order removing the subject person from his office, if any, with the licensee and prohibiting him from further participating in any manner in the conduct of the business of the licensee.

31707. (a) If the superintendent finds that any subject person of a licensee has been indicted by a grand jury for, or held to answer by a magistrate for, a crime involving an act of fraud or dishonesty, the superintendent may issue an order suspending such subject person from his office, if any, with such licensee and prohibiting him from further participating in any manner in the conduct of the business of the licensee, except with the consent of the superintendent.

(b) Within 30 days after an order is issued pursuant to subdivision (a), any subject person of a licensee to whom such order is directed may file with the superintendent an application for a hearing on such order. If the superintendent fails to commence a hearing within 15 business days after such application is filed with him (or within such longer period to which such licensee or subject person consents), such order shall be deemed rescinded. Upon such hearing, the superintendent shall affirm, modify, or rescind such order.

(c) The fact that any subject person of a licensee charged with a crime involving an act of fraud or dishonesty is not finally convicted of such crime shall not preclude the superintendent from issuing an order to such subject person pursuant to any other section of this division

31708. Any person to whom an order is issued under Section 31705, 31706, or 31707 may apply to the superintendent to modify or rescind such order. The superintendent shall not grant such application unless he finds that it is in the public interest to do so and that it is reasonable to believe that such person will, if and when he becomes a subject person of a licensee, comply with all applicable provisions of this division and of any regulation or order issued under this division.

31709. If, after notice and a hearing, the superintendent finds:

(a) That any licensee or any controlling person or affiliate of a licensee has violated any provision of this division or of any regulation or order issued under this division or any provision of any other applicable law;

(b) That any licensee is conducting its business in an unsafe and unsound manner,

(c) That any licensee is in such condition that it is unsafe or unsound for it to transact business;

(d) That any licensee has ceased to transact business as a business and industrial development corporation,

(e) That any licensee is insolvent;

(f) That any licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become

due:

(g) That any licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for any such relief under any such law against any licensee and such licensee has by any affirmative act approved of or consented to such action or such relief has been granted, or

(h) That any fact or condition exists which, if it had existed at the time when any licensee applied for its license, would have been grounds for denying such application;

the superintendent may issue an order suspending or revoking the license of such licensee.

31710. (a) If the superintendent finds that any of the factors set forth in Section 31709 is true with respect to any licensee and that it is necessary for the protection of the public interest that he immediately suspend or revoke the license of such licensee, the superintendent may issue an order suspending or revoking the license of such licensee

(b) Within 30 days after an order is issued pursuant to subdivision (a), any licensee to whom such order is directed may file with the superintendent a request for a hearing on such order. If the superintendent fails to commence a hearing within 15 business days after such request is filed with him (or within such longer period to which such licensee consents), such order shall be deemed rescinded. Upon such hearing, the superintendent shall affirm, modify, or rescind such order.

31711 Any person whose license is suspended or revoked shall immediately deliver such license to the superintendent.

31712. Any person to whom an order is issued under Section 31709 or 31710 may apply to the superintendent to modify or rescind such order. The superintendent shall not grant such application unless he finds that it is in the public interest to do so and that it is reasonable to believe that such person will, if and when it becomes a licensee, comply with all applicable provisions of this division and of any regulation or order issued under this division.

31713 (a) If the superintendent finds that any of the factors set forth in Section 31709 is true with respect to any licensee and that it is necessary for the protection of the interests of such licensee or for the protection of the public interest that he take immediate possession of the property and business of such licensee, the superintendent may forthwith take possession of the property and business of such licensee and retain possession until such licensee resumes business or is finally liquidated. Such licensee may, with the consent of the superintendent, resume business upon such conditions as he may prescribe.

(b) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may apply to the superior court in the county in which the

head office of such licensee is located to enjoin further proceedings. The court, after citing the superintendent to show cause why further proceedings should not be enjoined and after a hearing, may dismiss such application or enjoin the superintendent from further proceedings and order him to surrender the property and business of such licensee to such licensee or make such further order as may be just

(c) An appeal may be taken from the judgment of the superior court by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court. An appeal from the judgment of the superior court shall operate as a stay of such judgment. No bond need be given if the appeal is taken by the superintendent, but if the appeal is taken by the licensee, a bond shall be given as required by the Code of Civil Procedure

(d) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), he shall conserve or liquidate the property and business of such licensee pursuant to Article 1 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of such article (except Sections 3100, 3101, and 3102) shall apply as if such licensee were a bank

CHAPTER 12. CRIMES AND CRIMINAL PENALTIES

Article 1. General Provisions

31800. It shall be unlawful for any person willfully to make any untrue statement of a material fact in any application or report filed with the superintendent under this division or under any regulation or order issued under this division, or willfully to omit to state in any such application or report any material fact which is required to be stated therein.

31801. It shall be unlawful for any person having custody of any of the books, accounts, or other records of a licensee willfully to refuse to allow the superintendent, upon request, to inspect or make copies of any of such books, accounts, or other records.

31802. It shall be unlawful for any person, with intent to deceive any director, officer, employee, auditor, or attorney of a licensee, the superintendent, or any governmental agency, to make any false entry in any of the books, accounts, or other records of such licensee, to omit to make any entry in such books, accounts, or other records which such person is required to make, or to alter, conceal, or destroy any of such books, accounts, or other records

Article 2. Conflicts of Interest

31820. In this article, unless the context otherwise requires:

(a) "Adviser," when used with respect to a licensee, means any person who regularly provides legal, accounting, or management services or advice to such licensee.

(b) "Associate," when used with respect to a licensee, means:

(1) Any principal shareholder, director, officer, manager, agent, or adviser of such licensee.

(2) Any director, officer, partner, general manager, agent, employer, or employee of any person referred to in paragraph (1) of this subdivision,

(3) Any person who controls, is controlled by, or is under common control with, any person referred to in paragraph (1) of this subdivision, directly or indirectly through one or more intermediaries;

(4) Any close relative of any person referred to in paragraph (1) of this subdivision;

(5) Any person of which any person referred to in paragraphs (1) to (4), inclusive, of this subdivision is a director or officer; or

(6) Any person in which any person referred to in paragraphs (1) to (4), inclusive, of this subdivision or any combination of such persons acting in concert owns or controls, directly or indirectly, a 10 percent or greater equity interest.

(7) For purposes of this subdivision, any person who is in any of the relationships referred to in paragraphs (1) to (6), inclusive, of this subdivision within six months before or after a licensee provides financing assistance shall be deemed to be in such relationship as of the date when such licensee provides such financing assistance.

(8) For purposes of this subdivision, in case a licensee, in order to protect its interests, designates any person to serve as a director of, officer of, or in any capacity in the management of, a business firm to which such licensee provides financing assistance, such person shall not, on that account, be deemed to have any relationship with such business firm; provided, however, that this paragraph shall not apply in any case where the person has, directly or indirectly, any other financial interest in the business firm or where the person, at any time before the licensee provides the financing assistance, served as a director of, officer of, or in any other capacity in the management of, the business firm for a period of 30 days or more.

(c) "Close relative" means ancestor, lineal descendant, brother or sister and lineal descendants of either, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, or sister-in-law.

(d) "Closing services" means services performed in connection with the providing of financing assistance. "Closing services" includes (but is not limited to) appraising property and preparing credit reports. "Closing services" does not include any services performed after the providing of financing assistance.

(e) "Short-term financing assistance" means any financing assistance with a term of not more than five years.

31821. (a) The superintendent may, by such regulations or orders as he deems necessary and appropriate, either unconditionally or upon specified terms and conditions and for specified periods, exempt from the provisions of this article any

person or transaction or class of persons or transactions, if he finds such action to be in the public interest and that the regulation of such persons or transactions is not necessary for the purposes of this division.

(b) In exempting, from the provisions of this article any person or transaction or class of persons or transactions, the superintendent shall give due consideration to any conflict of interest provision of federal law or regulation applicable to such person or transaction governing participants in federal financing programs.

31822 It shall be unlawful for any licensee, directly or indirectly, to provide financing assistance to any of its associates.

31823. (a) It shall be unlawful for any licensee, directly or indirectly, to provide financing assistance to any associate of another licensee if any associate of the first licensee receives, has received, or is about to receive, directly or indirectly, financing assistance or a commitment for financing assistance from such other licensee;

(b) It shall be unlawful for any licensee, directly or indirectly, to provide financing assistance to any associate of another licensee if any associate of the first licensee receives, has received, or is about to receive, directly or indirectly financing assistance or a commitment for financing assistance from a third licensee pursuant to any contract, understanding, or arrangement among such licensees.

31824. It shall be unlawful for any licensee or for any associate of a licensee, directly or indirectly, to borrow money from:

(a) Any person to which such licensee has provided, or has committed to provide, financing assistance;

(b) Any director of, officer of, or person who owns a 10 percent or greater equity interest in, any person referred to in subdivision (a); or

(c) Any close relative of any person referred to in subdivision (b)

31825. It shall be unlawful for any licensee, directly or indirectly, to provide financing assistance to discharge, or to free other funds for use in discharging, in whole or in part, an obligation to any associate of such licensee; provided, however, that this section shall not apply to any transaction effected by an associate of a licensee in the normal course of such associate's business involving a line of credit or short-term financing assistance.

31826. It shall be unlawful for any licensee, directly or indirectly, to provide financing assistance for the purchase of property from any associate of such licensee.

31827. It shall be unlawful for any licensee, directly or indirectly, to provide financing assistance to any person to whom any associate of such licensee provides financing assistance, either contemporaneously with, or within one year before or after, the providing of financing assistance by the licensee, if the terms on which the licensee provides financing assistance are less favorable to the licensee than the terms on which the associate provides financing assistance to the associate In any case where the financing assistance

provided by the associate of the licensee is of a different kind from the financing assistance provided by the licensee, the burden shall be on the licensee to prove that the terms on which it provided financing assistance were at least as favorable to it as the terms on which the associate provided financing assistance to the associate. This section shall not apply to any transaction effected by an associate of a licensee in the normal course of such associate's business involving a line of credit or short-term financing assistance.

31828. It shall be unlawful for any associate of a licensee, directly or indirectly, to receive from any person to whom such licensee provides financing assistance, any compensation in connection with the providing of such financing assistance or anything of value for procuring, influencing, or attempting to procure or influence, the licensee's action with respect to the providing of the financing assistance This section shall not apply to the receipt by an associate of a licensee of fees for bona fide closing services performed by such associate; provided, however, that the associate is, with the consent and knowledge of the person to whom the financing assistance is provided, designated by the licensee to perform such services, that the services are appropriate and necessary in the circumstances, that the fees for the services are approved as reasonable by the licensee, and that the fees for the services are collected by the licensee on behalf of the associate

31829. It shall be unlawful for any licensee, directly or indirectly, to sell or otherwise transfer any of its assets to any of its associates.

Article 3. Criminal Penalties

31880 Any person who violates any provision of this chapter shall upon conviction be fined not more than ten thousand dollars ($10,000) or be imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment.

31881. Nothing in this division limits the power of the state to punish any person for any act which constitutes a crime under any statute.

CHAPTER 13. CIVIL PENALTIES

31900. If, after notice and a hearing, the superintendent finds that any person has violated any provision of this division or of any regulation or order issued under this division, the superintendent may order such person to pay to the superintendent a civil penalty in such amount as the superintendent may specify; provided, however, that the amount of such civil penalty shall not exceed one thousand dollars ($1,000) for each violation, or in the case of a continuing violation, one thousand dollars ($1,000) for each day for which such violation continues.

31901. The provisions of Section 31900 are additional to, and not

alternative to, other provisions of this division which authorize the superintendent to issue orders or to take other action on account of a violation of any provision of this division or of any regulation or order issued under this division; provided, however, that no person who has been finally convicted under Chapter 12 (commencing with Section 31800) of this division on account of a violation of any provision of Chapter 12 shall be liable to pay a civil penalty under Section 31900 on account of such violation, nor shall any person who has paid a civil penalty under Section 31900 on account of a violation of any provision of Chapter 12 be liable to criminal prosecution under Chapter 12 on account of such violation

CHAPTER 14. TRANSITION PROVISIONS

31950. In this chapter.

(a) "Member" has the meaning set forth in the old law

(b) "Old corporation" means a corporation organized under the old law

(c) "Old law" means Part 6 (commencing with Section 14200), Division 3, Title 1 of the Corporations Code, as added by Chapter 985 of the Statutes of 1975.

31951. Except as otherwise provided in Sections 31004 and 31952, the provisions of the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code) as added by Chapter 682 of the Statutes of 1975 shall, on and after the effective date of this division, apply to each old corporation; provided, however, that, for purposes of the provisions of Chapter 23 (commencing with Section 2300) of the General Corporation Law, with respect to each old corporation:

(a) The term "effective date" shall mean the effective date of this division.

(b) The term "prior law" shall mean the old law.

(c) Each old corporation shall be deemed to be a corporation referred to in Section 162 of the Corporations Code.

31952. In case any old corporation has, on the effective date of this division, any members:

(a) The old law shall continue to apply with respect to matters relating to the rights and obligations of such members with respect to such old corporation and to matters relating to the rights and obligations of such old corporation with respect to such members, so long as any of such members continues to be a member of such old corporation; provided, however, that, notwithstanding any provision of the old law to the contrary, any member of an old corporation may withdraw from membership in such old corporation by giving to such old corporation written notice of its intent to withdraw from membership in such old corporation not less than 10 days before the date on which it intends to withdraw from membership in such old corporation, which date shall be specified in such notice, and the withdrawal of such member from membership in such old

corporation shall be effective on such date

(b) No person shall, on or after the effective date of this division, become a member of such old corporation

SEC 4. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer

(b) When any police or sheriff's department or district attorney in this state certifies to a bank in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank in this state, such police or sheriff's department or district attorney may request a bank to furnish, and a bank shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account

(i) The number of items dishonored;

(ii) The number of items paid which created overdrafts;

(iii) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and customer to pay overdrafts,

(iv) The dates and amounts of deposits and debits and the account balance on such dates;

(v) A copy of the signature and any addresses appearing on a customer's signature card; and

(vi) The date the account opened and, if applicable, the date the account closed

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, or a police or sheriff's department or district attorney from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99) and Division 13 (commencing with Section 31000) of the Financial Code

(2) With respect to the Department of Savings and Loans by reference to Division 2 (commencing with Section 5000) of the Financial Code

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the State Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of:

(1) The information required by Sections 6702, 8954, 30313, 32383, 38502, and 40153 of the Revenue and Taxation Code; or

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code

(g) The disclosure to the State Controller of the information required by Section 7853 of the Revenue and Taxation Code.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes

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CHAPTER 1165

An act to add Section 23101.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 23101.5 is added to the Revenue and Taxation Code, to read:

23101.5. (a) The Franchise Tax Board may determine that a corporation is not doing business in this state for purposes of this chapter or deriving income from sources within this state for purposes of Chapter 3 (beginning with Section 23501) if its only

activities within this state are either or both of the following:

(1) The purchase of personal property or services solely for its own use or use by its affiliate outside this state if the corporation does not have more than 100 employees in this state, and their duties are limited to solicitation, negotiation, liaison, monitoring, auditing, and inspecting the property or services acquired, or providing technical advice with respect to its requirements

(2) The presence of employees in this state only for the purpose of attending a public or private school, college or university.

(b) If such determination is made, it shall remain in force for five years as long as the corporation continues to meet the above criteria; provided that, with respect to corporations meeting the above criteria on or before January 1, 1978, the determination shall remain in force indefinitely so long as the corporation continues to meet the above criteria.

The Franchise Tax Board shall report to the Legislature, by January 1, 1979, on its determinations made pursuant to this section, including the names of the corporations so affected and the grounds for determinations made. Any corporation determined to not be doing business in this state for purposes of this chapter or not be deriving income from sources within this state for purposes of Chapter 3 (commencing with Section 23501) pursuant to this section shall be deemed to have waived the confidentiality provisions of Section 26451 solely as to such report to the Legislature.

SEC. 2 This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of Section 1 shall be applied in the computation of taxes for income years beginning on or after January 1, 1977.

CHAPTER 1166

An act to amend Sections 35706 and 35707 of the Education Code, relating to school districts.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1 Section 35706 of the Education Code is amended to read:

35706. Notwithstanding any provisions of Section 35702, 35705, or other sections to the contrary:

(a) The governing board of the district to which the territory is to be transferred may file written opposition to the transfer with the county superintendent of schools prior to the hearing by the State Board of Education, board of supervisors, or county board of

education, as the case may be, required to be held in accordance with Section 35702 or 35704. If written opposition to the transfer of inhabited territory is so filed, the board shall, unless it denies the petition, require an election to be held on the question. The election shall be held in the entire territory of the school district to which the territory is to be transferred.

(b) The governing board of the district from which the territory is to be transferred may file written opposition to the transfer with the county superintendent of schools prior to the hearing by the State Board of Education, board of supervisors, or county board of education, as the case may be If written opposition is so filed, the board shall, unless it denies the petition, require an election to be held on the question The election shall be held in the entire territory of the school district from which the territory is to be transferred

(c) The county superintendent of schools shall call, hold, and conduct any election required by this section.

SEC 2. Section 35707 of the Education Code is amended to read:

35707. An election conducted under provisions of this article shall be determined by a majority of the votes cast by the electors of each district in which the election is held

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CHAPTER 1167

An act to amend Section 5001 of, and to add Sections 5004 and 5004 5 to, the Welfare and Institutions Code, relating to mentally disordered persons

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1 Section 5001 of the Welfare and Institutions Code is amended to read.

5001 The provisions of this part shall be construed to promote the legislative intent as follows:

(a) To end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism, and to eliminate legal disabilities;

(b) To provide prompt evaluation and treatment of persons with serious mental disorders or impaired by chronic alcoholism,

(c) To guarantee and protect public safety;

(d) To safeguard individual rights through judicial review,

(e) To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;

(f) To encourage the full use of all existing agencies, professional

personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures,

(g) To protect mentally disordered persons and developmentally disabled persons from criminal acts.

SEC. 2. Section 5004 is added to the Welfare and Institutions Code, to read:

5004. Mentally disordered persons and developmentally disabled persons shall receive protection from criminal acts equal to that provided any other resident in this state.

SEC. 3. Section 5004.5 is added to the Welfare and Institutions Code, to read:

5004.5. Notwithstanding any other provision of law, a legal guardian, conservator, or any other person who reasonably believes a mentally disordered or developmentally disabled person is the victim of a crime may file a report with an appropriate law enforcement agency. The report shall specify the nature of the alleged offense and any pertinent evidence Notwithstanding any other provision of law, the information in such report shall not be deemed confidential in any manner. No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be shown that a false report was made and the person knew or should have known that the report was false.

Where the district attorney of the county in which the alleged offense occurred finds, based upon the evidence contained in the report and any other evidence obtained through regular investigatory procedures, that a reasonable probability exists that a crime or public offense has been committed and that the mentally disordered or developmentally disabled person is the victim, the district attorney may file a complaint verified on information and belief.

The filing of a report by a legal guardian, conservator, or any other person pursuant to this section shall not constitute evidence that a crime or public offense has been committed and shall not be considered in any manner by the trier of fact

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CHAPTER 1168

An act to amend Section 3209.3 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

The people of the State of California do enact as follows

SECTION 1. Section 3209.3 of the Labor Code is amended to read:

3209.3 (a) "Physician" includes physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.

(b) "Psychologist" means a licensed psychologist with a doctorate degree in psychology and who either has at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of the Health Service Providers in Psychology.

(c) When treatment or evaluation for an injury is provided by a psychologist, provision shall be made for appropriate medical collaboration when requested by the employer or the insurer.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 1169

An act to add Section 15335.1 to the Government Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 15335.1 is added to the Government Code, to read:

15335.1. In addition to the duties required of the Office of International Trade by Section 15335, the office shall:

(a) Have responsibility over all of the following:

(1) Forecasting domestic and foreign demand for agricultural products.

(2) Provide special assistance to California's agricultural producers and firms engaged in the marketing of agricultural products produced in California to develop overseas markets.

(3) Collection, evaluation, interpretation, and dissemination of market information for buyers and sellers.

(4) Communication with foreign, national, state, and local agencies, and public and private persons, associations, and corporations regarding marketing of agricultural products produced in California in international trade.

(b) Report annually to the Governor and to the Legislature regarding the efforts and activities of the office.

(c) Utilize statistical information from the Marketing Services Division of the Department of Food and Agriculture in performing its duties under this section.

SEC 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Office of International Trade of the Department of Economic and Business Development for expenditure during the period January 1, 1978, to June 30, 1978, for the purposes of Section 15335.1 of the Government Code.

CHAPTER 1170

An act to amend Sections 56271 and 56331 of, and to add Sections 56280, 56281, 56282, and 56332 to, the Food and Agricultural Code, relating to marketing of agricultural products.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 56271 of the Food and Agricultural Code is amended to read:

56271. Every commission merchant, that receives any farm product for sale as a commission merchant, shall promptly make and keep a correct record which shows in detail all of the following with reference to the handling, sale, or storage of such farm product:

(a) The name and address of the consignor.

(b) The date it was received.

(c) The condition and quantity upon arrival.

(d) Date of such sale for the account of the consignor.

(e) The price for which it was sold.

(f) An itemized statement of the charges to be paid by the consignor in connection with the sale. Any services rendered for which charges are made, if not filed with the director, shall be charged at cost if not covered by a written contract. Cost-supporting data shall be available for verification.

(g) The names and addresses of all purchasers if the commission merchant has any financial interest in the business of the purchasers, or if the purchasers have any financial interest in the business of the commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise. Such interest shall be noted in such records following the name of any such purchaser.

(h) A lot number or other identifying mark for each consignment, which number or mark shall appear on each individual farm product container, every sales tag, and other essential record which is needed

to identify each consignment from receipt through final sale.

(i) Any claim which has been or may be filed by the commission merchant against any person for overcharges or for damages which result from the injury or deterioration of such farm product by the act, neglect, or failure of such person. Such records shall be open to the inspection of the director and the consignor of the farm product for whom such claim is made

SEC 2 Section 56280 is added to the Food and Agricultural Code, to read:

56280. No charge shall be made against a consignor's account for a downward price adjustment or a reduction in quantity of farm products delivered due to a breach of contract, unless the commission merchant has, in his files, a federal-state inspection certificate, issued pursuant to the United States Agricultural Marketing Act of 1946, (7 U.S.C. 1621, et seq.), indicating the type and the extent of the substandard condition of the lot involved in such breach of contract, thereby supporting the amount charged against the consignor's account.

This section does not preclude a consignor from agreeing to a downward price adjustment or a reduction in the quantity of farm products delivered and waiving the right to inspection when such agreement was made prior to the particular shipping season of the farm product and was in writing

Such federal-state inspection certificate may be substituted by a private third-party inspection, based on the standards prescribed under the United States Agricultural Marketing Act of 1946, if the director determines, to his satisfaction, that a federal-state inspection certificate could not reasonably be obtained. In the event that the director determines, to his satisfaction, that neither a federal-state inspection certificate nor private, third-party inspection, can be reasonably obtained, a signed statement of two or more disinterested, or otherwise independent parties, who have sufficient knowledge, acquired through education or experience, to evaluate the farm product involved, may be used as substitute for such a federal-state certificate or third-party inspection, in order to make a statement as to the type and extent of the determination of the lot of farm product

As used in this section, "lot" means the farm product identified by the procedure set forth in subdivision (h) of Section 56271.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute which is chaptered before January 1, 1981, deletes or extends such date.

SEC 3 Section 56281 is added to the Food and Agricultural Code, to read:

56281 A licensee operating as a commission merchant shall notify the consignor of any adjustment on a transaction, and provide reasons for such an adjustment, within 24 hours after the adjustment has been made In the event the commission merchant is unable to contact the consignor by telephone or in person within such 24-hour

period, such notification shall be immediately provided by certified mail

SEC 4. Section 56282 is added to the Food and Agricultural Code, to read:

56282 Notwithstanding any other provisions of this chapter, the director may disallow, to a commission merchant, all or part of, any adjustment charged back to a consignor, if the director determines that there is insufficient justification of the condition or circumstances requiring such adjustment

In determining whether there is insufficient justification for such an adjustment, the director shall consider, among other things, the following:

(a) The inspection required by Section 56280 does not support breach of contract.

(b) In view of the perishability of the farm product involved, the inspection was not timely.

(c) Market reports or other market evidence does not support a downward price adjustment

SEC 5 Section 56331 of the Food and Agricultural Code is amended to read:

56331. (a) Every licensee operating as a broker, upon negotiating the sale of farm products, shall issue to both buyer and seller a written memorandum of sale, before the close of the next business day, showing price, date of delivery, quality, and all other details concerned in the transaction

(b) The memorandum required by subdivision (a) shall have an individual identifying number printed upon it The numbers shall be organized and printed on the memoranda so that each memorandum can be identified and accounted for sequentially. Unused or damaged memoranda shall be retained by the broker for accounting purposes

SEC 6. Section 56332 is added to the Food and Agricultural Code, to read·

56332. A licensee operating as a broker shall not alter the terms of the transaction as specified on his original memorandum of sale without the consent of both parties to the transaction. Upon making such change, the broker is required to issue a clearly marked corrected memorandum of sale, which shall clearly indicate the date and time when such adjustment or change was made, and shall transmit such corrected memorandum to both buyer and seller before the close of the next business day.

SEC 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes

CHAPTER 1171

An act to amend Sections 6534.1, 6534.4, 6534.6, 6537, 6537.1, 6537.3, 6545, 6546, 6546.6, 6547, 6548, 6548.5, 6550.5, 6560, 6561, 6627, 6630, 6632, 6633, 6634, 6635, 6635.2, 6636, 6643, 6648, 6649, and 6650 of the Business and Professions Code, relating to barbers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 6534.1 of the Business and Professions Code is amended to read:

6534.1. An applicant for a certificate of registration to operate a barber college shall file an application with the board in such form as the board may prescribe accompanied by the application and inspection fee required by this chapter.

SEC. 2. Section 6534.4 of the Business and Professions Code is amended to read:

6534.4. The board shall issue a certificate of registration for each college which complies with this chapter and the regulations of the board upon payment of the certificate of registration fee prescribed by this chapter.

SEC. 3. Section 6534.6 of the Business and Professions Code is amended to read:

6534.6. For the purposes of this chapter and the regulations of the board, each separate location at which the practice of barbering or any part thereof is taught shall be considered to be a separate college, and a separate certificate shall be required for each. However, facilities at which the practice of barbering or any part thereof is taught which are operated or maintained by a college in the same central area as the main establishment of the college shall not be deemed, for the purposes of this chapter, to be a separate college. No such facility shall be operated or maintained by a college until and unless each such facility has been inspected and approved by the board in the same manner as is required before a certificate to operate a college may be issued, the fees prescribed by this chapter paid, and a certificate to operate and maintain the particular facility is issued by the board. All other provisions of this chapter governing the operation and maintenance of colleges, except as expressly otherwise provided, shall apply to each such facility as if the facility were a separate college, but in no case shall a student who has filed an application for enrollment or attendance at a college be required to file another application to attend any facility of such college.

SEC. 4. Section 6537 of the Business and Professions Code is amended to read:

6537 No college shall enroll or admit any student in a refresher course thereof, where the refresher course is for the purpose of qualifying persons to pass the examination conducted by the board to determine fitness to practice barbering, unless the student prepares, in duplicate, a verified application, obtained by the student or the college from the board, showing that there has been a compliance with each of the following:

(a) The applicant has completed the proper grade in school as provided in Section 6546 5 or has an equivalent education as theretofore determined by an examination conducted by the board.

(b) The applicant either

(1) Has graduated from a college approved by the board.

(2) Has met all the requirements of this chapter to take the examination for a certificate as a registered apprentice.

(3) Has met all the requirements of this chapter to take the examination for a certificate as a registered barber

One copy of the application shall be retained by the college admitting or enrolling the student and the other shall be filed by the college with the board. The enrollment fee required by this chapter shall be remitted with the application.

SEC. 5 Section 6537.1 of the Business and Professions Code is amended to read.

6537 1 A college may admit a registered apprentice or registered barber in this state to a postgraduate course. This course consists of instruction in the styling of haircuts, bleaching and coloring of hair, barber science, straightening or relaxing of hair, mens hairpieces (toupees), and waving of hair except permanent waving. A person admitted to this course shall not perform any act of barbering in the college for hire or reward. The postgraduate course may be offered to a registered apprentice or a registered barber only after 6 p.m. on any workday Such course may also be offered any hour of any day that the college is not open to the public.

One copy of the application shall be retained by the college admitting or enrolling the student and the other shall be filed by the college with the board

SEC 6. Section 6537 3 of the Business and Professions Code is amended to read·

6537.3. With the approval of the State Board of Barber Examiners and in compliance with such regulations as it may adopt, state and local apprenticeship committees may establish postgraduate or upgrading courses in barbering, under Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code, with or without on-the-job training, for persons registered by the board as barbers or apprentices Persons enrolling in such courses shall submit a copy of the enrollment form

SEC 7 Section 6545 of the Business and Professions Code is amended to read:

6545 Any person is qualified to receive a certificate of registration to practice barbering if he complies with each of the

following.

(a) He is qualified under the provisions of Section 6546 of this chapter

(b) He is at least 18 years of age.

(c) He is not subject to denial pursuant to Section 480.

(d) He has practiced as a registered apprentice for a period of 15 months under the supervision and employment of a registered barber, except that a registered apprentice who completes a 12 months apprenticeship program approved by the board and established under the provisions of Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code shall be required to serve as a registered apprentice for a period of only 12 months.

(e) He has passed a satisfactory examination conducted by the board to determine his fitness to practice barbering, except that a registered apprentice who successfully completes a 12 months apprenticeship program approved by the board and established under the provisions of Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code, and who has paid an amount equal to the examination fee specified in Section 6632, shall not be required to pass an examination conducted by the board, any other provision of this chapter notwithstanding.

(f) He has paid the examination and certificate of registration fees required by this chapter.

An applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the board shall continue to practice as an apprentice under the supervision and employment of a registered barber. He may file a new application accompanied by the required fee and take another examination.

No person holding a certificate of registration as a registered apprentice shall work for more than five years as an apprentice after failing to pass satisfactorily an examination conducted by the board without applying for and taking the examination for a certificate to practice as a registered barber, except that the board may extend this five-year period upon showing of good cause, which shall include, but not be limited to, delays in applying for and taking the examination caused by illness of or accident to the apprentice or service in the armed forces of the United States.

SEC. 8. Section 6546 of the Business and Professions Code is amended to read:

6546. Any person is qualified to receive a certificate of registration as a registered apprentice if he complies with each of the following:

(a) He has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board.

(b) He is at least 17½ years of age.

(c) He is not subject to denial pursuant to Section 480.

(d) He has graduated from a college approved by the board

(e) He has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice.

(f) He has paid the examination and certificate of registration fees required by this chapter

Any applicant for a certificate of registration to practice as an apprentice who fails the examination may file a new application accompanied by the required fee and take another examination

No person holding a certificate of registration as a registered apprentice shall work for more than five years as an apprentice nor shall he work more than six months after completing the required working time of an apprenticeship without applying for and taking the examination for a certificate to practice as a registered barber, except that the board may extend this five-year or six-month period upon showing of good cause, which shall include but not be limited to delays in applying for and taking the examination caused by illness of or accident to the apprentice or service in the armed forces of the United States

The five-year period contained in this section shall commence on the first day of employment as an apprentice for each person who obtains an original certificate of registration as an apprentice prior to November 8, 1967, and on the date of issue contained in an original certificate of registration as an apprentice for each person who obtains an original certificate of registration as an apprentice on or after November 8, 1967

SEC 9. Section 6546.6 of the Business and Professions Code is amended to read:

6546 6. (a) Notwithstanding any other provision of this chapter, a person, after submitting a duly verified application to the board, is qualified to receive a certificate of registration as a registered apprentice if he complies with each of the following:

(1) He meets the requirements of subdivisions (a), (b), (c), (e), and (f) of Section 6546.

(2) He has satisfactorily completed a course of training in barbering established by the Department of Corrections which complies with the requirements of this chapter pertaining to instructors and complies in all other respects with the requirements established for such courses by the board

(3) He has satisfactorily completed any supplementary training the board prescribes as necessary to assure that his total training will be substantially equivalent to the training required in a barber college licensed by the board

(b) The provisions of Section 6536 relating to notice and hearing shall be applicable to a person who applies under this section.

SEC 10 Section 6547 of the Business and Professions Code is amended to read:

6547 Each applicant shall file a verified application for an examination before the board The application shall be in the form and shall contain the matters required by the board Each application shall be accompanied by two 5" x 3" signed photographs

and the examination fee provided by law.

SEC 11. Section 6548 of the Business and Professions Code is amended to read.

6548. Not less than four times each year at the times and places it determines, the board shall conduct examinations to ascertain the educational qualifications of each of the following:

(a) Applicants for certificates of registration to practice as registered barbers.

(b) Applicants for certificates of registration to practice as registered apprentices

(c) Applicants to enter colleges.

The examination of applicants for certificates of registration as registered barbers and as registered apprentices shall include both a practical demonstration and a written and oral test and shall embrace the subjects usually taught in colleges of barbering approved by the board. The examination for a certificate of registration as a registered barber shall include the standard methods for dressing all textures of hair, including hair relaxing.

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5) The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC 12. Section 6548 5 of the Business and Professions Code is amended to read.

6548.5. Certificates of registered barber or of registered apprentice or of registered instructor shall be issued by the board to any applicant who satisfactorily passes an examination making a grade of not less than 75 percent who possesses the other qualifications required by law and who has remitted the certificate of registration fee required by this chapter.

SEC. 13. Section 6550.5 of the Business and Professions Code is amended to read.

6550.5. The board shall issue a certificate of registration as an instructor in a barber college to a person who complies with all of the following:

(a) Files an application with the board in such form as it may prescribe, accompanied by the application and examination fees.

(b) Is not subject to denial pursuant to Section 480.

(c) Holds a valid certificate as a registered barber in this state and has had two years experience in this state as a registered barber, or has had at least two years' experience as a registered barber in another state or country whose requirements for licensing barbers are substantially equivalent to those in this state, or has affidavits from at least two persons stating that he has had at least four years' practice as a barber in another state or country whose requirements for licensing barbers are not substantially equivalent to those in this state.

(d) Successfully passes a written and oral examination on the

theory of barbering.

(e) Has completed the 12th grade or the equivalent thereof as determined by an examination conducted by an examining agency approved by the board

(f) Has paid the certificate fee required by this chapter.

The amendments made to this section at the 1961 Regular Session of the Legislature shall not apply to any person who holds a certificate of registration as an instructor in a barber college on the effective date of the amendments to this section.

SEC. 13.5. Section 6550 5 of the Business and Professions Code is amended to read:

6550.5. The board shall issue a certificate of registration as an instructor in a barber college to a person who complies with all of the following

(a) Files an application with the board in such form as it may prescribe, accompanied by the application and examination fees.

(b) Is not subject to denial pursuant to Section 480.

(c) Holds a valid certificate as a registered barber in this state and has one of the following.

(1) Has had two years experience in this state as a registered barber

(2) Has had at least two years experience as a registered barber in another state or country whose requirements for licensing barbers are substantially equivalent to those in this state.

(3) Has affidavits from at least two persons stating that he has had at least four years practice as a barber in another state or country whose requirements for licensing barbers are not substantially equivalent to those in this state

(4) Is a registered barber and has completed an approved 400-hour instructor training program within a six-month period in a barber college.

(d) Successfully passes a written and oral examination on the theory of barbering

(e) Has completed the 12th grade or the equivalent thereof as determined by an examination conducted by an examining agency approved by the board.

(f) Has paid the certificate fee required by this chapter

The amendments made to this section at the 1961 Regular Session of the Legislature shall not apply to any person who holds a certificate of registration as an instructor in a barber college on the effective date of the amendments to this section

SEC 14. Section 6560 of the Business and Professions Code is amended to read

6560 Any person upon payment of the required examination fee shall be granted permission to take an examination to determine his fitness to receive a certificate of registration to practice barbering if he complies with each of the following:

(a) He is at least 18 years of age

(b) He is not subject to denial pursuant to Section 480

(c) He has completed the proper grade in school as provided in Section 6560.5, or has an equivalent education as determined by an examination conducted by an examining agency prescribed by the board.

(d) He has either:

(1) A valid license or certificate of registration as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by this chapter.

(2) Affidavits from at least two person stating that he has practiced as a barber in another state or country for a period of at least two years within the last five immediately prior to filing his application in this state.

If he passes the required examination, a certificate of registration to practice barbering shall be issued to him upon payment of the certificate fee required by this chapter

If he fails to pass the examination, he may file a new application accompanied by the required examination fee and take another examination. In no event will he be permitted to practice barbering until such time as he satisfactorily passes an examination and receives a certificate of registration as a registered barber

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5). The board shall reschedule the examination date for the applicant upon the applicants payment of the penalty fee.

SEC. 15 Section 6561 of the Business and Professions Code is amended to read:

6561. Any person, upon payment of the required examination fee, shall be granted permission to take an examination to determine his fitness to receive a certificate of registration as a registered apprentice, if he complies with each of the following:

(a) He is at least 17½ years of age.

(b) He is not subject to denial pursuant to Section 480.

(c) He has completed the proper grade in school as provided in Section 6546.5 or has an equivalent education as determined by an examination conducted by an examining agency prescribed by the board.

(d) He has either

(1) A valid certificate of registration as an apprentice in another state or country which has substantially the same requirements for registering an apprentice as required by this chapter

(2) Affidavits that he has practiced as an apprentice in another state or country for at least six months within the last two years immediately prior to making application in this state.

If he passes the required examination, a certificate of registration as a registered apprentice shall be issued to him upon payment of the certificate of registration fee required by this chapter and the time spent in such other state or country as apprentice shall be credited

upon the period of apprenticeship required by this chapter as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber

If he fails to pass the examination, he may file a new application accompanied by the required examination fee and take another examination. In no event will he be permitted to practice barbering until such time as he satisfactorily passes an examination and receives a certificate of registration as a registered apprentice

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5). The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC. 16. Section 6627 of the Business and Professions Code is amended to read:

6627. A person who fails to renew his certificate within five years after its expiration may not renew it, and it shall not be reinstated, restored or reissued thereafter. Such person may apply for a new certificate, and, except as provided in Section 6627.5, a new certificate of the same class as the expired certificate shall be issued to him, if.

(1) He is not subject to denial pursuant to Section 480;

(2) No fact, circumstance or condition exists which, if the certificate were issued, would justify its suspension or revocation;

(3) He pays all of the fees in connection with the certificate for which he applies which would be required of him if he were then applying for the certificate for the first time; and

(4) He takes and passes the examination, if any, which would be required of him if he were then applying for the certificate for the first time, except that, if the expired certificate was issued without an examination, no examination shall be required.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the examination or inspection fee, respectively, payable under this section if no examination is required, or if no inspection is made.

SEC. 17. Section 6630 of the Business and Professions Code is amended to read:

6630. A duplicate certificate will be issued upon the filing of a statement covering the loss of a certificate, verified by the oath of the applicant, and submitting two 3" x 5" signed photographs, and upon the payment of a fee fixed by the board at not more than five dollars and fifty cents ($5.50) for the issuance of the certificate.

SEC. 18. Section 6632 of the Business and Professions Code is amended to read:

6632. The amount of the fees payable in connection with certificates of registration to practice barbering is as follows.

(a) The examination fee shall be fixed by the board at not more than twenty dollars ($20).

(b) The fee for issuance of the certificate is an amount equal to the

renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued

(c) The renewal fee shall be fixed by the board at not more than thirty dollars ($30) for each biennial renewal period

(d) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

SEC. 19. Section 6633 of the Business and Professions Code is amended to read:

6633. The amount of the fees payable in connection with certificates of registration to practice as an apprentice is as follows:

(a) The examination fee shall be fixed by the board at not more than twenty dollars ($20)

(b) The fee for issuance of the certificate is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued.

(c) The renewal fee shall be fixed by the board at not more than thirty dollars ($30) for each biennial renewal period.

(d) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

SEC. 20. Section 6634 of the Business and Professions Code is amended to read:

6634. The amount of the fees payable in connection with certificates to conduct a barbershop is as follows:

(a) The inspection fee to be paid by an applicant to conduct a new barbershop or an existing shop at a new location shall be fixed by the board at not more than forty two dollars and fifty cents ($42.50).

(b) The certificate fee to be paid by an applicant to conduct a new barbershop or an existing shop at a new location shall be fixed by the board at not more than fifteen dollars ($15).

(c) The fee to be paid by an applicant to conduct an existing barbershop under new ownership shall be fixed by the board at not more than fifteen dollars ($15.00).

(d) The renewal fee shall be fixed by the board at not more than thirty dollars ($30) for each biennial renewal period.

(e) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

SEC. 21. Section 6635 of the Business and Professions Code is amended to read:

6635. The amount of the fees payable in connection with certificates of registration for a barber college is as follows:

(a) The application fee shall be fixed by the board at not more than one hundred dollars ($100)

(b) The inspection fee to be paid by an applicant to conduct a new

barber college or an existing barber college under a new owner shall be fixed by the board at not more than fifty dollars ($50).

(c) The fee for the issuance of a certificate shall be fixed by the board at not more than one hundred fifty dollars ($150).

(d) The annual renewal fee shall be fixed by the board at not more than one hundred fifty dollars ($150)

(e) The restoration fee shall be an amount equal to the renewal fee plus twenty-five dollars ($25).

SEC. 22. Section 6635.2 of the Business and Professions Code is amended to read:

6635.2. The enrollment fees for students enrolling in a barber college shall be fixed by the board at not more than ten dollars ($10) Persons enrolling under the provisions of Sections 6537.1 and 6537.3 shall not be required to pay the enrollment fee prescribed by this chapter.

SEC. 23. Section 6636 of the Business and Professions Code is amended to read:

6636. The amount of the fees payable in connection with certificates of registration as an instructor in a barber college is as follows:

(a) The application fee shall be fixed by the board at not more than ten dollars ($10).

(b) The examination fee shall be fixed by the board at not more than thirty seven dollars and fifty cents ($37.50).

(c) The fee for issuance of a certificate is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued

(d) The renewal fee for the biennial renewal period shall be fixed by the board at not more than thirty dollars ($30).

(e) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed

SEC. 24. Section 6643 of the Business and Professions Code is amended to read:

6643. A person is eligible to receive a special certificate in barbering, if he complies with each of the following:

(a) He is qualified under the provisions of Section 6644 of this article.

(b) He is at least 18 years of age.

(c) He is not subject to denial pursuant to Section 480

(d) He has passed the examination conducted by the board as prescribed in Section 6647 to determine his fitness to practice barbering.

(e) He has been certified by a regional center established pursuant to the Lanterman Mental Retardation Services Act of 1969 (Division 25 (commencing with Section 38000) of the Health and Safety Code) as mentally retarded, but educable.

(f) He has paid the application, examination, and certificate of registration fees required by this chapter

SEC. 25. Section 6648 of the Business and Professions Code is amended to read:

6648. A special certificate in barbering shall be issued by the board to any applicant who satisfactorily passes an examination making a grade of not less than 75 percent, and who possesses the other qualifications required by this article, and who has remitted the certificate of registration fee required by this chapter.

SEC. 26. Section 6649 of the Business and Professions Code is amended to read:

6649 Each applicant shall file a verified application for an examination before the board. It shall be in the form and shall contain the matters required by the board Each application shall be accompanied by two 5" by 3" signed photographs and the application and examination fees provided by law.

SEC. 27. Section 6650 of the Business and Professions Code is amended to read:

6650 The amount of the fees payable in connection with special certificates in barbering is as follows:

(a) The applicaton fee shall be fixed by the board at not more than ten dollars ($10).

(b) The examination fee shall be fixed by the board at not more than thirty dollars ($30)

(c) The fee for the issuance of the certificate is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, if the certificate will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued.

(d) The renewal fee shall be fixed by the board at not more than thirty dollars ($30) for each biennial renewal period

(e) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

SEC. 28. It is the intent of the Legislature, if this bill and Assembly Bill No. 688 are both chaptered and amend Section 6550.5 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 688, that the amendments to Section 6550.5 proposed by both bills be given effect and incorporated in Section 6550.5 in the form set forth in Section 13.5 of this act. Therefore, Section 13.5 of this act shall become operative only if this bill and Assembly Bill No. 688 are both chaptered, both amend Section 6550.5, and Assembly Bill No. 688 is chaptered before this bill, in which case Section 13 of this act shall not become operative.

SEC. 29. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The revenues generated by the fees authorized by this act are

needed immediately to prevent a deficit in the State Board of Barber Examiners' Fund. It is therefore necessary that this act go into immediate effect.

CHAPTER 1172

An act to amend Section 4600 of the Labor Code, relating to workers' compensation

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 4600 of the Labor Code, as amended by Chapter 442 of the Statutes of 1977, is amended to read.

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licenced pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred. Expenses of medical testimony shall be presumed reasonable if in conformity with the fee schedule charges provided for impartial medical experts appointed by the administrative director

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee,

the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of fourteen cents ($0.14) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination

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CHAPTER 1173

An act to amend Sections 42902, 42905, 42907, 42908, 42909, 42910, and 42911 of, and to amend the heading of Chapter 11 (commencing with Section 42900) of Part 24 of, and to add Section 42904 to, and to add Chapter 12 (commencing with Section 42950) to Part 24 of, and to repeal Sections 42900, 42901, and 42904 of, the Education Code, relating to special education programs.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. The heading of Chapter 11 (commencing with Section 42900) of Part 24 of the Education Code is amended to read:

CHAPTER 11. REIMBURSEMENT FOR COSTS OF EDUCATION OF INSTITUTIONAL CHILDREN

SEC. 2. Section 42900 of the Education Code is repealed.

SEC. 3. Section 42901 of the Education Code is repealed

SEC. 4. Section 42902 of the Education Code is amended to read:

42902. Whenever a school district, or a county superintendent of schools, provides education as described in this section for children who reside in a regularly established licensed children's institution, or in a hospital operated by a county, located either within or without the boundaries of the district, in a nonprofit tax-exempt hospital or other nonprofit tax-exempt treatment facility, an institution or in a family home, pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code, located either within or without the boundaries of the district, the district or county superintendent of schools shall be reimbursed for the approved cost of educating each such child by the county or city and county in which the child resided prior to his admission to the institution, or the home, or the

hospital. If the child's prior residence cannot be ascertained or if his residence was outside the State of California, the district shall be reimbursed for the approved cost of educating such child by the county or city and county in which the institution, or family home, or the hospital is located

The pupil residing in an institution, family home, hospital, or treatment facility under this section does not acquire residence in the district wherein such institution, family home, hospital, or treatment facility is located during the period of such residence.

A district or county superintendent of schools may provide education in the regular school and classes, in special schools and classes for pupils coming within the provisions of Section 56501, 56515, 56700, or 56604, and in a special educational program for such pupils residing in an institution, family home, hospital, or treatment facility as described in this section.

SEC. 5. Section 42904 of the Education Code is repealed

SEC. 6. Section 42904 is added to the Education Code, to read:

42904. The county of which any pupil described in Section 42902 is a resident shall at the close of each year pay to the district or county superintendent of schools educating such pupil the following allowed costs:

(a) The local property tax share per unit of average daily attendance of the revenue limit for districts or the local property tax share of the expenditures per unit of average daily attendance for county superintendents.

(b) The local property tax share per special education unit of average daily attendance of the excess cost of maintaining schools and classes for physically handicapped, mentally retarded, or educationally handicapped pupils

(c) The excess cost for providing a special educational program for pupils as allowed in Section 42902 less any federal or state allowances for such special program. The sum of such excess cost per unit of average daily attendance plus any income from state or federal government for such purposes shall not exceed the average income needed to provide special education for such pupils as determined by the Superintendent of Public Instruction. The amount determined by the superintendent for any school district which provided special educational programs for such pupils during the 1976–77 fiscal year shall not be less than the average level of support for such pupils during that fiscal year

(d) Any tuition payments required to be paid by a district pursuant to Section 1705 for education of any pupil described in this chapter.

Commencing with the 1978–79 fiscal year, a school district shall reduce its revenue limit as prescribed by Section 42238 by any part of the tuition received pursuant to this section that represents the district's share of the revenue limit.

The Superintendent of Public Instruction shall provide the necessary directions to implement this section including, but not

limited to, specifications and requirements for approval of special education programs for pupils as allowed in Section 42902.

SEC. 7. Section 42905 of the Education Code is amended to read.

42905. In addition to any other payments required by this chapter, where the education of children described in Section 42902 is provided in buildings or facilities owned by the school district or county superintendent of schools, the county or city and county of the pupil's residence shall pay to the school district or county superintendent of schools, for the pupil's use of the buildings and facilities and appurtenant equipment, an amount per unit of average daily attendance of such children during the school year prescribed by whichever of the following subdivisions is applicable:

(a) Thirty-five dollars ($35) if an elementary school district

(b) Fifty-five dollars ($55) if a high school district.

(c) Forty-two dollars ($42) if a unified school district.

(d) Forty-four dollars ($44) if a county superintendent of schools.

The moneys so received by the school district shall be deposited to the credit of its bond interest and redemption fund or its building fund. The moneys so received by the county superintendent of schools shall be deposited to the credit of the county school service fund of the county for use in providing school buildings and facilities for the use of the county superintendent of schools in educating mentally retarded pupils, physically handicapped pupils, and educationally handicapped children, as the case may be.

Except for mentally retarded pupils, physically handicapped pupils, and educationally handicapped pupils, no payment shall be made to a district under this section for children described in Section 42902 unless the district educates in kindergarten or grades 1 through 12, inclusive, at least 30 children described in Section 42902 in buildings or facilities owned by the district.

SEC. 8. Section 42907 of the Education Code is amended to read:

42907. The district maintaining such school or classes pursuant to Section 42902 or 42951 shall forward its claim on forms prescribed by the Superintendent of Public Instruction not later than the 15th day of July of each year to the county superintendent of schools of the county, or city and county, wherein the district is located. The county superintendent shall determine if pupils for whom costs are claimed pursuant to subdivisions (b) and (c) of Section 42904 or 42951 were actually enrolled in the special programs. The county superintendent shall certify and present the claim to the county superintendent of the county, or city and county, of the pupil's residence.

SEC. 9. Section 42908 of the Education Code is amended to read:

42908. The county superintendent of schools in each county, and city and county, shall file with the board of supervisors not later than the eighth day of August of each year a request for sufficient funds to pay the total amount of claims presented to him in accordance with Section 42907.

If during any fiscal year the county superintendent of schools

determines that an amount of at least one hundred dollars ($100) more or an amount of at least one hundred dollars ($100) less than was required for the claim of any individual district under Section 42907 included in a request filed by him with the county board of supervisors during a prior fiscal year, such amount shall, not later than the third succeeding fiscal year, be added to or deducted from the request for funds for the then current fiscal year

SEC. 10. Section 42909 of the Education Code is amended to read:

42909. The board of supervisors of each county, and city and county, shall annually, at the time and in the manner of levying other county, and city and county taxes, levy and cause to be collected a tax for the payment of claims submitted pursuant to Section 42908.

SEC. 11 Section 42910 of the Education Code is amended to read:

42910. The moneys received from such county tax shall be deposited in the county treasury to the credit of the county school service fund. On or before the first Monday in February and the first Monday in June of each year, the county auditor shall notify the county superintendent of schools of the amount of money in the treasury available for the payment of claims authorized by this chapter.

The county superintendent of schools shall thereupon disburse the money to the school districts which have qualified for reimbursement pursuant to this chapter.

SEC. 12. Section 42911 of the Education Code is amended to read:

42911. The State Superintendent of Public Instruction may furnish the forms and shall prescribe the procedures required of school districts and county superintendents of schools under this chapter, and shall adopt all rules and regulations necessary for carrying out its provisions

The Superintendent of Public Instruction, in cooperation with the Department of Finance, shall prescribe the audit requirements necessary to determine if special incomes allowed by this chapter were appropriately expended for the education of the pupils described in this chapter

SEC. 13. Chapter 12 (commencing with Section 42950) is added to Part 24 of the Education Code, to read:

CHAPTER 12. REIMBURSEMENT FOR EDUCATING NONIMMIGRANT NONCITIZEN CHILDREN

42950 Any school district that provided education in kindergarten or grades 1 to 12, inclusive, for nonimmigrant children or noncitizen children without immigration status during the 1976–77 school year may increase its revenue limits by an amount per average daily attendance not to exceed the reimbursement received under a countywide tax levied for the local share of the revenue limit for such children pursuant to statutes that existed in this code during the 1976–77 school year.

42951. The county of which any nonimmigrant or noncitizen

pupil is a resident shall at the close of each year pay to the district or county superintendent of schools educating such pupil the excess cost for providing special programs to meet the needs of nonimmigrant or noncitizen pupils less any federal or state allowances for such special program. The sum of such excess cost per unit of average daily attendance plus any income from state or federal government for such purposes shall not exceed the average income needed to provide such special programs for such pupils as determined by the Superintendent of Public Instruction. The amount determined by the superintendent for any school district which provided special programs for such pupils during the 1976–77 fiscal year shall not be less than the average level of support for such pupils during that fiscal year.

The State Board of Education shall provide the necessary directions to implement this section including, but not limited to, specifications and requirements for state approval of special programs for such pupils based on documentation of such special programs by the district.

Such funds shall be raised and paid pursuant to Sections 42907, 42908, 42909, and 42910.

SEC. 14. This act shall become operative on July 1, 1978.

CHAPTER 1174

An act to amend Section 2807.2 of the Vehicle Code, relating to schoolbuses, and making an appropriation therefor

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. The Legislature finds that in enacting Chapter 945 of the Statutes of 1976, funds were not provided in that legislation to reimburse school districts for the one-time capital outlay costs required as a result of a more frequent and more comprehensive inspection of schoolbuses. The Legislature also finds that preventive maintenance inspections of schoolbuses should be conducted at periodic intervals during the school year and not limited only to weekly inspection. The Legislature, therefore, declares its intent to require such periodic and weekly inspections whenever determined to be appropriate to ensure the safe transportation of children in schoolbuses, and to reimburse school districts, on a one-time-only basis, providing the facilities and equipment to make such inspections.

SEC. 2. Section 2807.2 of the Vehicle Code, as amended by Chapter 406 of the Statutes of 1977, is amended to read:

2807.2. The Department of the California Highway Patrol shall,

by regulation, provide for a preventive maintenance inspection guide for weekly use by operators of motor vehicles specified in Sections 2807 and 2807.1. The regulations shall provide that such record of inspection shall be signed by the person making such inspection, and the record of such inspections shall be retained on file by the operator for review and inspection by the Department of the California Highway Patrol.

SEC. 3 The sum of one million dollars ($1,000,000) is hereby appropriated from the Driver Training Penalty Assessment Fund to the General Fund and from the General Fund to the Superintendent of Public Instruction for allocation to school districts and county superintendents of schools for reimbursement for increased approved capital outlay costs for equipment and facilities which are incurred as a result of the inspections required pursuant to Section 2807.2 of the Vehicle Code.

The funds appropriated by this act shall be available for encumbrance only until January 1, 1979

CHAPTER 1175

An act to amend Sections 23320, 23321, and 23350 of the Government Code, relating to counties.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 23320 of the Government Code is amended to read:

23320. Proceedings for the creation of a proposed county shall be initiated by petition. Any such petition shall contain the following.

(a) An accurate description of the boundaries of the proposed county.

(b) A statement that such boundaries do not pass through or divide the territory of any incorporated city other than a city with a population greater than that of the proposed new county

(c) A statement of the population of the proposed county, as near as may be determined.

(d) A statement of the population which will remain in the affected county or counties if the territory of the proposed county is detached therefrom, as near as may be determined

(e) A statement of the area in square miles which will remain in the affected county or counties if the territory of the proposed county is detached therefrom.

(f) The name of the proposed county

(g) The name of the affected county or counties.

(h) A request that proceedings for creation of the proposed

county be initiated

SEC. 2. Section 23321 of the Government Code is amended to read:

23321. (a) Where the population of the proposed county is less than 5 percent of the total population of the affected counties, a petition initiating proceedings shall be signed by qualified electors residing within the territory of the proposed county as described in the petition equaling in number not less than 25 percent of the number of electors of the territory of the proposed county registered within the territory on the date of the last preceding gubernatorial election and by not less than 10 percent of the electors registered within the balance of the affected counties on the date of the last preceding gubernatorial election.

(b) Where the population of the proposed county is 5 percent or more of the total population of the affected counties, a petition initiating proceedings shall be signed by qualified electors residing within the territory of the proposed county as described in the petition equaling in number not less than 25 percent of the number of electors of the territory of the proposed county registered within the territory on the date of the last preceding gubernatorial election.

Each elector, after signing a petition, shall add the name of the county in which the elector resides, the elector's place of residence, giving a street and number or a designation sufficient to enable the place of residence to be readily ascertained, and the date the elector signed the petition.

SEC. 3. Section 23350 of the Government Code is amended to read:

23350. Upon receiving the commission's determinations, the board of supervisors of each affected county shall order and give proclamation and notice of an election to be held in each affected county on the same specified day which shall be the next statewide primary or general election date not less than 74 days after receipt of the commission's determinations, for the purpose of determining whether the proposed county shall be created; provided, however, that the election may be consolidated with either the next statewide primary election or statewide general election.

SEC. 4. The provisions of this act shall not apply to any proposed county wherein sufficient signatures have been collected to initiate proceedings to form a new county prior to the effective date of this act.

SEC. 5 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1176

An act to repeal and add Chapter 7 (commencing with Section 3380) of Division 4 of, and to repeal Chapters 8 (commencing with Section 3400) and 10 (commencing with Section 3480) of Division 4 of, the Health and Safety Code, relating to immunizations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Chapter 7 (commencing with Section 3380) of Division 4 of the Health and Safety Code is repealed.

SEC. 2. Chapter 7 (commencing with Section 3380) is added to Division 4 of the Health and Safety Code, to read:

CHAPTER 7. IMMUNIZATION AGAINST COMMUNICABLE DISEASES

3380. In enacting this chapter, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against diphtheria, pertussis, tetanus, poliomyelitis, and measles.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health and that a record of the immunization is made in accordance with such regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

3381. (a) As used in this chapter, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against diphtheria,

pertussis (whooping cough), tetanus, poliomyelitis, and measles in the manner and with immunizing agents approved by the state department

3382 A person who has not been fully immunized against one or more of the diseases listed in Section 3381 may be admitted by the governing authority on condition that within time periods designated by regulation of the state department he or she presents evidence that he or she has been fully immunized against all of these diseases

3383. The immunizations required by this chapter may be obtained from any private or public source desired, providing that the immunization is administered and records are made in accordance with regulations of the state department.

3384. The requirements of this chapter shall not apply to any person 18 years of age or older, or to any person seeking admission to a community college.

3385. Immunization of a person shall not be required for admission to a school or other institution listed in Section 3381 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit stating that such immunization is contrary to his or her beliefs. However, whenever there is good cause to believe that such person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 3380, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

3386 If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, such person shall be exempt from the requirements of this chapter to the extent indicated by the physician's statement.

3387. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or guardian, with a written record of immunization given in a form prescribed by the state department

3388. The county health officer of each county shall organize and maintain a program to make immunizations available to all persons required by this chapter to be immunized. The county health officer shall also determine how the cost of such a program is to be recovered To the extent that the cost to the county is in excess of that sum recovered from persons immunized, the cost shall be paid by the county in the same manner as other expenses of the county are paid

3389 (a) The governing authority of each school or institution

included in Section 3381 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the state department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the state department he or she has been fully immunized against all of the diseases listed in Section 3381, and such immunizations received subsequent to entry shall be added to the pupil's immunization record

(b) The governing authority of each school or institution included in Section 3381 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the regulations of the state department, unless the pupil is exempted under Section 3385 or 3386, until that pupil has been fully immunized against all of the diseases listed in Section 3381.

(c) The governing authority shall file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the state department and the local health department at times and on forms prescribed by the state department As provided in paragraph (4) of subdivision (a) of Section 49076 of the Education Code, the local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 3381 in order to determine immunization deficiencies

(d) The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of any school or other institution may permit any licensed physician or any qualified registered nurse as provided in Section 2727.3 of the Business and Professions Code to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

3390. The state department, in consultation with the Department of Education, shall adopt and enforce all rules and regulations necessary to carry out the provisions of this chapter.

SEC. 3. Chapter 8 (commencing with Section 3400) of Division 4 of the Health and Safety Code is repealed.

SEC. 4 Chapter 10 (commencing with Section 3480) of Division 4 of the Health and Safety Code is repealed.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because of duties, obligations, or responsibilities imposed on local

governmental entit es by this act are such that related costs are incurred as a part of their normal operating procedures

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

In order to carry out an effective program of immunization against communicable diseases that will protect the public health and safety, it is essential that this act take effect immediately.

CHAPTER 1177

An act to add Chapter 3 5 (commencing with Section 41185) and Chapter 3 5 (commencing with Section 50530) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Chapter 3.5 (commencing with Section 41185) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3 5. URBAN HOUSING DEVELOPMENT LOAN FUND LAW

41185 As used in this chapter:

(a) "Loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for construction or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. Purposes for which loans may be made include, but are not limited to, costs of, or associated with, land purchase or options to buy land, professional services such as architectural, engineering, or legal services, permit or application fees, and bonding, site preparation, and related water or sewer development. In addition, such loans may be made for an extension of an option or advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(b) "Loan fund" means the Urban Housing Development Loan Fund.

(c) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing

corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code.

(d) "Urban area" means an area which is not a rural area, as defined in Section 41064

41186. (a) There is hereby created in the State Treasury the Urban Housing Development Loan Fund

All money in the loan fund is hereby continuously appropriated to the department for carrying out the purposes of this chapter The loan fund shall be a revolving loan fund which shall be used to make loans to local agencies or nonprofit corporations for assisted housing in urban areas, for occupancy primarily by persons of low income

All interest, dividends, and pecuniary gains from investments or deposits of moneys in the loan fund shall accrue to the loan fund notwithstanding Section 16405.7 of the Government Code.

There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys which the department receives in repayment of loans made from the fund, including any interest on loans made therefrom.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources

(b) If on January 1, 1981, any moneys appropriated pursuant to Section 4 of the act enacting this section remain unencumbered in the loan fund, such unencumbered balance shall be transferred from the loan fund to the General Fund in the State Treasury This subdivision shall have no application to any other moneys deposited in the loan fund, including moneys paid into the loan fund pursuant to paragraph (2) of subdivision (a)

41187. (a) The department shall require adequate security for all loans made from the loan fund. For purposes of this subdivision "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option, except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable

(b) No loan may be made pursuant to this chapter unless the department may reasonably anticipate that a commitment can be obtained by the nonprofit corporation or local agency for construction financing or long-term financing that will permit occupancy as specified in Section 41186 The department shall not approve loans exceeding fifty thousand dollars ($50,000), exclusive of payments for purchase of real property as may be approved by the department The department shall not approve loans, including payments for options or deposits on contracts of purchase for a term less than 18 months or in an amount in excess of 10 percent of the purchase price

(c) (1) Except as provided in paragraph (2) of this subdivision, all

loans made from the loan fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the loan payment is made.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low-income households. However, if the department eliminates interest on a loan, it shall charge a loan origination fee, not to exceed 2 percent of the loan amount.

(d) In complying with the provisions of Section 41109, the department shall also report annually to the Legislature and the Governor on the administration of the loan fund. Such report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents in assisted units, (4) the number and amount of loans made to each agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, and (6) recommendations, as needed, to improve operations of the fund.

41188 On or before January 31, 1980, the Secretary of the Business and Transportation Agency shall undertake a review of the operation of the Urban Housing Development Loan Fund and shall determine, by written findings, whether or not the loan fund is being used for the purposes intended and is effective in promoting the development of assisted housing for persons of low income. Such findings shall also contain an evaluation of whether or not the amount of moneys in the loan fund is appropriate to accomplish the purposes of this chapter Such written findings shall be submitted to the Speaker of the Assembly and the President pro Tempore of the Senate and the chairman of the committee in each house which considers appropriations on or before January 31, 1980

If the secretary submits such written findings on or before January 31, 1980, and determines that the loan fund is not being used for the purposes intended or is ineffective in promoting the development of assisted housing for persons of low income, then he may terminate the department's authority to loan moneys from the loan fund effective January 31, 1980, in which case the loan fund shall be dissolved on January 1, 1981, and all moneys therein, or payable thereto under this chapter, shall be paid into the General Fund in the State Treasury.

SEC. 2. Chapter 3 5 (commencing with Section 50530) is added to Part 2 of Division 31 of the Health and Safety Code, as added by Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature, to read:

CHAPTER 3 5 URBAN HOUSING DEVELOPMENT LOAN FUND LAW

50530. As used in this chapter:

(a) "Loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for construction or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained Purposes for which loans may be made include, but are not limited to, costs of, or associated with, land purchase or options to buy land, professional services such as architectural, engineering, or legal services, permit or application fees, and bonding, site preparation, and related water or sewer development. In addition, such loans may be made for an extension of an option or advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(b) "Loan fund" means the Urban Housing Development Loan Fund.

(c) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code

(d) "Urban area" means an area which is not a rural area, as defined in Section 50101.

50531 (a) There is hereby created in the State Treasury the Urban Housing Development Loan Fund

All money in the loan fund is hereby continuously appropriated to the department for carrying out the purposes of this chapter. The loan fund shall be a revolving loan fund which shall be used to make loans to local agencies or nonprofit corporations for assisted housing in urban areas, for occupancy primarily by persons of low income

All interest, dividends, and pecuniary gains from investments or deposits of moneys in the loan fund shall accrue to the loan fund notwithstanding Section 16405.7 of the Government Code.

There shall be paid into the fund the following

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys which the department receives in repayment of loans made from the fund, including any interest on loans made therefrom

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

(b) If on January 1, 1981, any moneys appropriated pursuant to Section 4 of the act enacting this section remain unencumbered in the loan fund, such unencumbered balance shall be transferred from

the loan fund to the General Fund in the State Treasury. This subdivision shall have no application to any other moneys deposited in the loan fund including moneys paid into the loan fund pursuant to paragraph (2) of subdivision (a).

50532. (a) The department shall require adequate security for all loans made from the loan fund. For purposes of this subdivision "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option, except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable.

(b) No loan may be made pursuant to this chapter unless the department may reasonably anticipate that a commitment can be obtained by the nonprofit corporation or local agency for construction financing or long-term financing that will permit occupancy as specified in Section 50531. The department shall not approve loans exceeding fifty thousand dollars ($50,000), exclusive of payments for purchase of real property as may be approved by the department. The department shall not approve loans, including payments for options or deposits on contracts of purchase for a term less than 18 months or in an amount in excess of 10 percent of the purchase price.

(c) (1) Except as provided in paragraph (2) of this subdivision, all loans made from the loan fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the loan payment is made

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low-income households. However, if the department eliminates interest on a loan, it shall charge a loan origination fee, not to exceed 2 percent of the loan amount.

(d) In complying with the provisions of Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the loan fund. Such report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents in assisted units, (4) the number and amount of loans made to each agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, and (6) recommendations, as needed, to improve operations of the fund

50533. On or before January 31, 1980, the Secretary of the Business and Transportation Agency shall undertake a review of the operation of the Urban Housing Development Loan Fund and shall determine, by written findings, whether or not the loan fund is being used for the purposes intended and is effective in promoting the

development of assisted housing for persons of low income. Such findings shall also contain an evaluation of whether or not the amount of moneys in the loan fund is appropriate to accomplish the purposes of this chapter. Such written findings shall be submitted to the Speaker of the Assembly and the President pro Tempore of the Senate and the chairman of the committee in each house which considers appropriations on or before January 31, 1980.

If the secretary submits such written findings on or before January 31, 1980, and determines that the loan fund is not being used for the purposes intended or is ineffective in promoting the development of assisted housing for persons of low income, then he may terminate the department's authority to loan moneys from the loan fund effective January 31, 1980, in which case the loan fund shall be dissolved on January 1, 1981, and all moneys therein, or payable thereto under this chapter, shall be paid into the General Fund in the State Treasury.

SEC. 3. If Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature is chaptered and becomes effective January 1, 1978, Section 2 of this act shall become operative and Section 1 of this act shall not be operative; if Senate Bill No. 1123 is not chaptered and effective January 1, 1978, Section 1 of this act shall become operative and Section 2 of this act shall not be operative.

SEC. 4. The sum of five hundred thirty-five thousand dollars ($535,000) is appropriated from the General Fund for deposit in the Urban Housing Development Loan Fund which shall be allocated for expenditure in accordance with the following schedule:

(a) For making development loans pursuant to Chapter 3.5 (commencing with Section 41185) of Part 2 of Division 31 of the Health and Safety Code; or if Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature is chaptered and become effective January 1, 1978, pursuant to Chapter 3.5 (commencing with Section 50530) of Part 2 of Division 31 of the Health and Safety Code	$500,000
(b) For administrative costs of the Department of Housing and Community Development incurred pursuant to Chapter 3 5 (commencing with Section 41185) of Part 2 of Division 31 of the Health and Safety Code; or, if Senate Bill No. 1123 of the 1977–78 Regular Session of the Legislature is chaptered and becomes effective January 1, 1978, pursuant to Chapter 3.5 (commencing with Section 50530) of Part 2 of Division 31 of the Health and Safety Code	35,000

CHAPTER 1178

An act to amend Sections 51070, 51075, 51080, 51083, 51084, 51085, 51086, 51087, 51090, 51091, 51092, 51093, 51094, and 51095 of, and to add Section 51083.5 to, the Government Code, and to amend Sections 421 and 426 of the Revenue and Taxation Code, relating to open-space easements.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 51070 of the Government Code is amended to read:

51070. It is the intent of the Legislature in enacting this chapter to provide a means whereby any county or city may acquire or approve an open-space easement in perpetuity or for a term of years for the purpose of preserving and maintaining open space.

SEC. 2. Section 51075 of the Government Code is amended to read:

51075. As used in this chapter, unless otherwise apparent from the context:

(a) "Open-space land" means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in Section 65560 of the Government Code.

(b) "City" means any city or city and county.

(c) "Landowner" includes a lessee or trustee, if the expiration of the lease or trust occurs at a time later than the expiration of the open-space restriction or any extension thereof.

(d) "Open-space easement" means any right or interest in perpetuity or for a term of years in open-space land acquired by a county, city, or nonprofit organization pursuant to this chapter where the deed or other instrument granting such right or interest imposes restrictions which, through limitation of future use, will effectively preserve for public use or enjoyment the natural or scenic character of such open-space land. An open-space easement shall contain a covenant with the county, city, or nonprofit organization running with the land, either in perpetuity or for a term of years, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument provided that such reservation would not be inconsistent with the purposes of this chapter and which would not be incompatible with maintaining and preserving the natural or scenic character of the land. Any such covenant shall not prohibit the construction of either public service facilities installed for the benefit of the land subject to such covenant or public service facilities installed pursuant to an authorization by the governing body of the county or city or the Public Utilities Commission.

(e) "Open-space plan" means the open-space element of a county

or city general plan adopted by the local governing body pursuant to Section 65560 of the Government Code

(f) "Nonprofit organization" means any organization qualifying under Section 501(c)(3) of the Internal Revenue Code in the preceding tax year, and which includes the preservation of open space as a stated purpose in its articles of incorporation. Such qualification shall be demonstrated by a letter of determination from the Internal Revenue Service.

SEC 3 Section 51080 of the Government Code is amended to read:

51080. Any county or city which has an adopted open-space plan may accept or approve a grant of an open-space easement on privately owned lands lying within the county or city in the manner provided in this chapter.

SEC 4. Section 51083 of the Government Code is amended to read:

51083. No deed or other instrument described in subdivision (d) of Section 51075 shall be effective until it has been accepted or approved by resolution of the governing body of the county or city and its acceptance endorsed thereon.

SEC. 5. Section 51083.5 is added to the Government Code, to read:

51083.5. Notwithstanding any provisions of this chapter, the grant of any easement to a nonprofit organization shall be effective upon its acceptance by such organization. However, for the purposes of this chapter and Sections 421 to 432, inclusive, of the Revenue and Taxation Code, no such easement shall be considered as granted pursuant to this chapter unless the grant of such easement has been approved by the county or city in which the land lies pursuant to the provisions of this article.

SEC. 6. Section 51084 of the Government Code is amended to read:

51084. No grant of an open-space easement shall be accepted or approved by a county or city, unless the governing body, by resolution, finds:

(a) That the preservation of the land as open space is consistent with the general plan of the county or city; and

(b) That the preservation of the land as open space is in the best interest of the county or city and specifically because one or more of the following reasons exist:

(1) That the land is essentially unimproved and if retained in its natural state has either scenic value to the public, or is valuable as a watershed or as a wildlife preserve, and the instrument contains appropriate covenants to that end.

(2) It is in the public interest that the land be retained as open space because such land either will add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located.

(3) The public interest will otherwise be served in a manner recited in the resolution and consistent with the purposes of this subdivision and Section 8 of Article XIII of the Constitution of the State of California.

The resolution of the governing body shall establish a conclusive

presumption that the conditions set forth in subdivisions (a) and (b) have been satisfied.

SEC 7. Section 51085 of the Government Code is amended to read

51085. The governing body of the county or city may not accept or approve any grant of an open-space easement until the matter has first been referred to the county or city planning department or planning commission and a report thereon has been received from the planning department or planning commission. Within 30 days after receiving the proposal to accept or approve a grant of an open-space easement, the planning department or planning commission shall submit its report to the governing body. The governing body may extend the time for submitting such a report for an additional period not exceeding 30 days. The report shall specify whether the proposal is consistent with the general plan of the jurisdiction.

SEC 8 Section 51086 of the Government Code is amended to read·

51086. (a) From and after the time when an open-space easement has been accepted or approved by the county or city and its acceptance or approval endorsed thereon, no building permit may be issued for any structure which would violate the easement and the county or city shall seek by appropriate proceedings an injunction against any threatened construction or other development or activity on the land which would violate the easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of the easement

In the event the county or city fails to seek an injunction against any threatened construction or other development or activity on the land which would violate the easement or to seek a mandatory injunction requiring the removal of any structure erected in violation of the easement, or if the county or city should construct any structure or development or conduct or permit any activity in violation of the easement, the owner of any property within the county or city, or any resident thereof, may, by appropriate proceedings, seek such an injunction.

(b) In the case of an open-space easement granted to a nonprofit organization pursuant to this chapter, such organization shall seek, through its official representatives, an injunction against any threatened construction or other development or activity on the land which would violate the easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of the easement

(c) The court may award to a plaintiff or defendant who prevails in an action authorized by this section his or her costs of litigation, including reasonable attorney's fees

(d) Nothing in this chapter shall limit the power of the state, or any department or agency thereof, or any county, city, school district, or any other local public district, agency or entity, or any

other person authorized by law, to acquire land subject to an open-space easement by eminent domain.

SEC. 9 Section 51087 of the Government Code is amended to read:

51087 Upon the acceptance or approval of any instrument creating an open-space easement the clerk of the governing body shall record the same in the office of the county recorder and file a copy thereof with the county assessor. From and after the time of such recordation such easement shall impart such notice thereof to all persons as is afforded by the recording laws of this state.

SEC. 10. Section 51090 of the Government Code is amended to read·

51090 An open-space easement for a term of years may be terminated only in accordance with the provisions of this article. An open-space easement may be terminated only by:

(a) Nonrenewal, or

(b) Abandonment

Abandonment of an easement granted to the county or city pursuant to this chapter shall be controlled by Section 51093

Abandonment or nonrenewal of an easement granted to a nonprofit organization pursuant to this chapter shall be effective only if approved by appropriate resolution of the governing body of such organization and such abandonment or nonrenewal initiated by a nonprofit organization has been approved by the county or city in which the land lies in the manner provided in Section 51093.

SEC. 11. Section 51091 of the Government Code is amended to read:

51091 If either the landowner or the county, city, or nonprofit organization desires in any year not to renew the open-space easement, that party shall serve written notice of nonrenewal of the easement upon the other party at least 90 days in advance of the annual renewal date of the open-space easement Unless such written notice is served at least 90 days in advance of the renewal date, the open-space easement shall be considered renewed as provided in Section 51081

Upon receipt by the owner of a notice from the county, city, or nonprofit organization of nonrenewal, the owner may make a written protest of the notice of nonrenewal The county, city, or nonprofit organization may, at any time prior to the renewal date, withdraw the notice of nonrenewal

SEC 12 Section 51092 of the Government Code is amended to read

51092 If the county, city, or nonprofit organization or the landowner serves notice of intent in any year not to renew the open-space easement, the existing open-space easement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the open-space easement, as the case may be

SEC 13 Section 51093 of the Government Code is amended to

read:

51093. (a) The landowner may petition the governing body of the county or city for abandonment of any open-space easement or in the case of an open-space easement granted to a nonprofit organization pursuant to this chapter, for approval of abandonment by such organization, as to all of the subject land. The governing body may approve the abandonment of an open-space easement only if, by resolution, it finds:

(1) That no public purpose described in Section 51084 will be served by keeping the land as open space; and

(2) That the abandonment is not inconsistent with the purposes of this chapter; and

(3) That the abandonment is consistent with the local general plan, and

(4) That the abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

No resolution abandoning an open-space easement, or approving the abandonment of an open-space easement granted to a nonprofit organization pursuant to this chapter, shall be finally adopted until the matter has been referred to the county or city planning commission, the commission has held a public hearing thereon and furnished a report on the matter to the governing body stating whether the abandonment is consistent with the local general plan and the governing body has held at least one public hearing thereon after giving 30 days' notice thereof by publication in accordance with Section 6061 of the Government Code, and by posting notice on the land

(b) Prior to approval of the resolution abandoning or approving the abandonment of an open-space easement, the county assessor of the county in which the land subject to the open-space easement is located shall determine the full cash value of the land as though it were free of the open-space easement. The assessor shall multiply such value by 25 percent, and shall certify the product to the governing body as the abandonment valuation of the land for the purpose of determining the abandonment fee

(c) Prior to giving approval to the abandonment of any open-space easement, the governing body shall determine and certify to the county auditor the amount of the abandonment fee which the landowner must pay the county treasurer upon abandonment. That fee shall be an amount equal to 50 percent of the abandonment valuation of the property.

(d) Any sum collected pursuant to this section shall be transmitted by the county treasurer to the State Controller and be deposited in the State General Fund.

(e) An abandonment shall not become effective until the abandonment fee has been paid in full.

SEC 14. Section 51094 of the Government Code is amended to read

51094. Upon the recording in the office of the county recorder of a certified copy of a resolution abandoning or approving the abandonment of an open-space easement and reciting compliance with the provisions of Section 51093, the land subject thereto shall be deemed relieved of the easement and the covenants of the owner contained therein shall be deemed terminated; provided, however, that no certified copy of any resolution abandoning or approving the abandonment of an open-space easement shall be recorded until the abandonment fee has been paid in full

SEC. 15. Section 51095 of the Government Code is amended to read.

51095 If any land or a portion thereof as to which any city or county has accepted or approved an open-space easement pursuant to this chapter is thereafter sought to be condemned for public use and the easement was received as a gift without the payment of any compensation therefor, the easement shall terminate as of the time of the filing of the complaint in condemnation as to the land or portion thereof sought to be taken for public use, and the owner shall be entitled to such compensation for the taking as he would have been entitled to had the land not been burdened by the easement.

SEC 16. Section 421 of the Revenue and Taxation Code is amended to read:

421. For the purposes of this article.

(a) "Agricultural preserve" means an agricultural preserve created pursuant to the California Land Conservation Act of 1965 (Williamson Act) (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code)

(b) "Contract" means a contract executed pursuant to the California Land Conservation Act

(c) "Agreement" means an agreement executed pursuant to the California Land Conservation Act prior to the 61st day following the final adjournment of the 1969 Regular Session of the Legislature and which, taken as a whole, provides restrictions, terms, and conditions which are substantially similar or more restrictive than those required by statute for a contract.

(d) "Scenic restriction" means any interest or right in real property acquired by a city or county pursuant to Chapter 12 (commencing with Section 6950) of Division 7 of Title 1 of the Government Code, where the deed or other instrument granting such right or interest imposes restrictions which, through limitation of their future use, will effectively preserve for public use and enjoyment, the character of open spaces and areas as defined in Section 6954 of the Government Code.

A scenic restriction shall be for an initial term of 10 years or more, and shall either:

(1) Provide a method whereby the term may be extended by mutual agreement of the parties, or

(2) Provide that the initial term shall be subject to annual automatic one-year extensions as provided for contracts in Sections

51244, 51244.5, and 51246 of the Government Code, unless notice of nonrenewal is given as provided in Section 51245 of the Government Code.

A scenic restriction may not be terminated prior to the expiration of the initial term, and any extension thereof, except as provided for cancellation of contracts in Sections 51281, 51282, 51283 and 51283.3 of the Government Code, and subject to the provisions therein for payment of the cancellation fee.

(e) "Open-space easement" means an open-space easement granted to a county or city pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division 1 of Title 5 of the Government Code if the easement is acquired prior to January 1, 1975, or an open-space easement granted to a county, city, or nonprofit organization pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5 of the Government Code if the easement is acquired after January 1, 1975.

(f) "Wildlife habitat contract" means any contract or amended contract or covenant involving 150 acres or more of land entered into by a landowner with any agency or political subdivision of the federal or state government limiting the use of lands for a period of 10 or more years by the landowner to habitat for native or migratory wildlife and native pasture. Such lands shall, by contract, be eligible to receive water for waterfowl or waterfowl management purposes from the federal government.

(g) "Open-space land" means any of the following:

(1) Land within an agricultural preserve and subject to a contract or an agreement.

(2) Land subject to a scenic restriction.

(3) Land subject to an open-space easement.

(h) "Typical rotation period" means a period of years during which different crops are grown as part of a plant cultural program. Typical rotation period does not mean the rotation period of timber.

(i) "Wildlife" means waterfowl of every kind and any other undomesticated mammal, fish, or bird.

SEC. 17. Section 426 of the Revenue and Taxation Code, as amended by Chapter 495 of the Statutes of 1977, is amended to read:

426. Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091 or 51245 of the Government Code, the board, for purposes of surveys required by Section 1815, and the county assessors shall, unless the parties shall have subsequently rescinded such contract pursuant to Section 51254 or 51255 of the Government Code, value such land as provided in this section.

(a) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091 or 51245 of the Government Code, subdivision (b) shall apply immediately. If the

county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091 or 51245 of the Government Code, subdivision (b) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted.

(b) Where any of the conditions in subdivision (a) apply, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall:

(1) Determine the full cash value of the land as if it were not enforceably restricted;

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (a);

(3) Subtract the value determined in subdivision (b) (2) by capitalization of income from the full cash value determined in subdivision (b) (1);

(4) Using the rate announced by the board pursuant to subdivision (b) (1) of Section 423, discount the amount obtained in subdivision (b) (3) of this section for the number of years remaining until the termination of the period for which the land is enforceably restricted;

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in subdivision (b) (2) and the value obtained in subdivision (b) (4); and

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in subdivision (b) (5) to obtain its assessed value.

SEC 18. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there by an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures

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CHAPTER 1179

An act to add Section 16039.5 to the Education Code, relating to school building aid, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 16039.5 is added to the Education Code, to read:

16039.5. Notwithstanding the provisions of Section 16039, if the board has made apportionments pursuant to such section for purchase of a site or preparation of plans and specifications and the district after January 1, 1977, (1) begins construction on such site of facilities which are justified by the maximum building areas set forth in Sections 16047, 16052, 16053, and 16054, or (2) uses such plans and specifications for the construction of such facilities using, in any case, funds other than an apportionment, such site or plans and specifications shall be deemed to be "subsequently used in a construction project ' within the meaning of Section 16039. In such cases, the balance of the principal amount of the apportionment for such site or plans and specifications, and accrued interest thereon, shall not be payable pursuant to Section 16039, but shall be added by the Controller to, and become a part of, any apportionment for construction pursuant to Section 16041, as if an apportionment had been made for such construction and had become final upon the date construction began

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are:

In order for this act to be operative for the entire 1977–78 fiscal year, and so prevent an unnecessarily high rate of taxation to be levied in the school districts to which this act applies, it is necessary that this act take effect immediately.

CHAPTER 1180

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. The sum of two million seven hundred seventy-six thousand seven hundred eighteen dollars and four cents ($2,776,718.04) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$2,174,819 23
State Transportation Fund	
Motor Vehicle Account	23,989.18
State Highway Account	17,392.40
Transportation Tax Fund	
Motor Vehicle Account	2,862.20
Motor Vehicle Fuel Account	72 32
Motor Vehicle License Fee Account	6,704.00
Health Care Deposit Fund	224,086.47
Unemployment Fund	2,210.00
Unemployment Administration Fund	10,506.91
Unemployment Compensation Disability Fund	1,342.87
CPA Examination Fund	50.00
Fair and Exposition Fund	2,000.00
Public Employees' Retirement Fund	198.54
Fish and Game Preservation Fund	501.50
Private Investigators and Adjusters Fund	70,810.49
Harbors and Watercraft Revolving Fund	2,250 00
California Environmental Protection Program Fund	151,350.00
Cooperative Personnel Services Revolving Fund	78,641 95
State Optometry Fund	6,929.98
Total	$2,776,718.04

SEC 2 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to settle claims against the state and ending a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1181

An act to amend Sections 1580, 1755, 1756, 1760, 1761, 1762, and 1763 of, and to add Chapter 10 (commencing with Section 1900) to Division 2 of, the Fish and Game Code, and to amend Section 5093.33 of the Public Resources Code, relating to native plants, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 1580 of the Fish and Game Code is amended to read:

1580. For the purpose of protecting rare or endangered native plants, wildlife, or aquatic organisms or specialized habitat types both terrestrial and aquatic, the department, with the approval of the commission, may obtain by purchase, lease, gift or otherwise, land and water for the purpose of establishing ecological reserves Such ecological reserves shall not be classed as wildlife management areas pursuant to Section 1504 and shall be exempt from the provisions of Section 1504.

SEC 2. Section 1755 of the Fish and Game Code is amended to read:

1755. The Legislature finds and declares all of the following:

(a) That it is the policy of this state:

(1) To maintain sufficient populations of all species of wildlife and native plants and the habitat necessary to insure their continued existence at the optimum levels possible to insure the policies stated in paragraphs (2), (3), and (4).

(2) To provide for the beneficial use and enjoyment of wildlife and native plants by all citizens of the state

(3) To perpetuate native plants and all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to man.

(4) To provide for aesthetic, educational, and nonappropriative uses of the various wildlife and native plant species.

(b) That the conservation and enhancement of wildlife species which are not the object of hunting and native plant species is in the general public interest and it is appropriate that the cost of programs to achieve such conservation and enhancement, including the biological and botanical research necessary thereto, and the diffusion of the information resulting therefrom to the public, be borne to the extent necessary by general public funds.

SEC. 3. Section 1756 of the Fish and Game Code is amended to read:

1756 The policy set forth in this chapter is in the public interest regardless of the economic value or lack of such value of wildlife or native plants.

SEC. 4. Section 1760 of the Fish and Game Code is amended to read:

1760. The department shall maintain within the Fish and Game Preservation Fund a Native Species Conservation and Enhancement Account, which is hereby created, to permit separate accountability for the receipt and expenditure of moneys derived through donation from persons or organizations for the support of nongame and native plant species conservation and enhancement programs

SEC. 5 Section 1761 of the Fish and Game Code is amended to read:

1761. Whenever the department receives funds from persons or organizations for the support of nongame and native plant species conservation and enhancement programs, such funds shall be deposited in the Fish and Game Preservation Fund and credited to the Native Species Conservation and Enhancement Account.

SEC. 6. Section 1762 of the Fish and Game Code is amended to read:

1762. The department shall provide each person or organization making a contribution of five dollars ($5) or more for the support of nongame and native plant species conservation and enhancement programs a suitably prepared certificate, decal, medallion, or other object of public appreciation signifying the interest of such person or organization in the conservation and enhancement of native plant and wildlife species. The commission shall approve the form, nature, and content of any certificate, decal, medallion or other object proposed for use by the department pursuant to this section.

SEC. 7. Section 1763 of the Fish and Game Code is amended to read:

1763. The department may take all appropriate measures to encourage donations by individuals, organizations, and public agencies to the Native Species Conservation and Enhancement Account, including, but not limited to, public information concerning the status of native plant and wildlife species threatened by the activities of man. The cost to the department to carry out the provisions of this section may be charged to the Native Species Conservation and Enhancement Account.

SEC. 8. Chapter 10 (commencing with Section 1900) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 10. NATIVE PLANT PROTECTION

1900. The intent of the Legislature and the purpose of this chapter is to preserve, protect and enhance endangered or rare native plants of this state.

The Legislature finds that many species and subspecies of native plants are endangered because their habitats are threatened with destruction, drastic modification, or severe curtailment, or because of commercial exploitation or by other means, or because of disease or other factors.

1901 The department shall establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare. As used in this chapter, "native plant" means a plant growing in a wild uncultivated state which is normally found native to the plantlife of this state. A species, subspecies, or variety is endangered when its prospects of survival and reproduction are in immediate jeopardy from one or more causes. A species, subspecies, or variety is rare when, although not presently threatened with extinction, it is in such small numbers throughout its range that it may become endangered if its present environment worsens.

1902 The department, in cooperation with federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals, shall periodically inventory threatened native plants of the state. Such inventory shall include, but is not limited to, an enumeration of the threatened native plants of the state and a determination of the condition of each species with respect to its being endangered or rare, or becoming endangered or rare.

1903. The department shall submit to the Governor and the Legislature biennially, not later than January 1, the first of which shall be submitted no later than January 1, 1980, a full and accurate report of the inventory, including recommendations for: (a) The addition or deletior of endangered and rare species. (b) Preserving, protecting, and enhancing the conditions of endangered and rare species of native plants of the state, including the habitat critical to their continued survival

1904. The commission may. after public hearing, designate endangered and rare native plants. To the extent that the location of such plants is known, the department shall notify the owners of such land of the fact that a rare or endangered native plant is growing thereon and provide such information about the protection of such plants as may be appropriate.

1905 The department may undertake botanical research and field investigations and may collect and diffuse such statistics and information as sha l pertain to the conservation, protection, and perpetuation of native plants

1906. Nothing in this code or any other law shall prohibit the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants

1907. (a) The commission may adopt regulations governing the taking, possession, propagation, transportation, exportation, importation, or sale of any endangered or rare native plants. Such regulations may include, but shall not be limited to, requirements for persons who perform any of the foregoing activities to maintain written records and to obtain permits which may be issued by the department.

(b) Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to the provisions of Part 3 (commencing with Section 6701) of Division 4 of the Food and Agricultural Code shall not be required to obtain a permit pursuant to this chapter unless such activities involve the collection of rare or endangered plants or parts or products thereof growing in a wild, uncultivated state.

(c) Persons who purchase nursery grown stock shall not be required to obtain a permit pursuant to this chapter.

1908. No person shall import into this state, or take, possess, or sell within this state, except as incident to the possession or sale of the real property on which the plant is growing, any native plant, or any

part or product thereof, that the commission determines to be an endangered native plant or rare native plant, except as otherwise provided in this chapter.

1909 When any power or authority is given by any provision of this chapter to any person, it may be exercised by any deputy, inspector, or agent duly authorized by such person Any person in whom the enforcement of any provision of this chapter is vested has the power of a peace officer as to such enforcement, which shall include state and federal agencies, and the State of Nevada, State of Oregon, or State of Arizona with which cooperative agreements have been made by the department to enforce any provisions of this chapter.

1910. A peace officer or an employee or agent of the department may, in the enforcement of this chapter, make arrests without warrant for a violation of this chapter he may witness, and may confiscate plants or parts thereof when unlawfully taken, transported, possessed, sold, or otherwise, in violation of this chapter The provisions of this chapter are in addition to the provisions of Section 384a of the Penal Code.

1911. All state departments and agencies shall, in consultation with the department, utilize their authority in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered or rare native plants Such programs include, but are not limited to, the identification, delineation and protection of habitat critical to the continued survival of endangered or rare native plants.

1912. The provisions of this chapter shall not be applicable to emergency work necessary to protect life or property; however, notification by the person or agency performing such emergency work shall be made to the department within 14 days of the commencement of such work.

1913. (a) The provisions of this chapter are not intended and shall not be construed as authorizing any public agency to mandate, prescribe, or otherwise regulate agricultural operations or management practices, including the clearing of land for agricultural practices or fire control measures.

(b) Notwithstanding the provisions of Section 1911, timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code), or required mining assessment work pursuant to federal or state mining laws, or the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right-of-way by the owner of the land or his agent, or the performance by a public agency or a publicly or privately owned public utility of its obligation to provide service to the public, shall not be restricted by this chapter because of the presence of rare or endangered plants, except as provided in subdivision (c) of this section

(c) Notwithstanding the provisions of subdivisions (a) and (b) of

this section, where the owner of land has been notified by the department pursuant to Section 1903.5 that a rare or endangered native plant is growing on such land, the owner shall notify the department at least 10 days in advance of changing the land use to allow for salvage of such plant. The failure by the department to salvage such plant within 10 days of notification shall entitle the owner of the land to proceed without regard to this chapter Submission of a timber harvesting plan pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code) shall constitute notice under this section. Converting from one type of agricultural use, as defined in Section 51201 of the Government Code, to another type of agricultural use shall not constitute a change in land use.

SEC. 9. Section 5093.33 of the Public Resources Code is amended to read:

5093.33. (a) There is hereby established a California wilderness preservation system to be composed of state-owned areas designated by the Legislature as "wilderness areas" and units of the state park system classified as "state wildernesses" by the State Park and Recreation Commission pursuant to Section 5001 5, and these shall be administered for the use and enjoyment of the people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, provide for the protection of such areas, preserve their wilderness character, and provide for the gathering and dissemination of information regarding their use and enjoyment as wilderness. No state-owned areas shall be designated as "wilderness areas" except as provided for in this chapter or by subsequent legislative enactment.

(b) Notwithstanding the inclusion of an area within the system, a wilderness area shall continue to be subject to the jurisdiction of the state agency or agencies having jurisdiction thereover immediately prior to its inclusion in the system. The secretary shall adopt guidelines for the management of wilderness areas. Each state agency or agencies having jurisdiction over a wilderness area shall adopt regulations for the management of such areas consistent with the guidelines adopted by the secretary and the objectives of this chapter. Such regulations shall include provisions to protect endangered or rare native plant and animal species.

(c) A wilderness area, in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. A wilderness area is further defined to mean an area of relatively undeveloped state-owned land which has retained its primeval character and influence or has been substantially restored to a near natural appearance, without permanent improvements or human habitation, other than semi-improved campgrounds and primitive latrines, and which is protected and managed so as to preserve its natural conditions and which:

(1) Appears generally to have been affected primarily by the forces of nature, with the imprint of mans work substantially unnoticeable.

(2) Has outstanding opportunities for solitude or a primitive and unconfined type of recreation.

(3) Has at least 5,000 acres of land, either by itself or in combination with contiguous areas possessing wilderness characteristics, or is of sufficient size as to make practicable its preservation and use in an unimpaired condition.

(4) May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 11. The sum of seventy-five thousand dollars ($75,000) is appropriated from the General Fund to the Department of Fish and Game for expenditure during fiscal year 1977–78 for the purposes of this act.

CHAPTER 1182

An act to amend Section 754 of, the Evidence Code, relating to interpreters for the deaf.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 754 of the Evidence Code is amended to read:

754. (a) As used in this section, "deaf person" means a person with a hearing loss so great as to prevent his understanding language spoken in a normal tone.

(b) In any criminal action, including any juvenile case or proceeding, or any proceeding to determine the mental competency of a person, or any administrative hearing, where a party or witness is a deaf person and such deaf person is required to be present, the proceedings shall be interpreted in a language that the deaf person understands by a qualified interpreter appointed by the court, tribunal, or hearing officer, or as agreed upon by the parties.

(c) For the purposes of this section, "qualified interpreter" shall mean only a person who meets both of the following criteria:

(1) Has been issued a certificate of competency by the National

Registry of Interpreters for the Deaf, or by a state group affiliated with the National Registry of Interpreters for the Deaf, or by any other group determ ned by the Judicial Council to possess a level of competence in training, testing, and certification of interpreters for the deaf equivalent to that of the National Registry of Interpreters for the Deaf, which certificate has been determined by the issuing agency to be appropriate for the purpose of interpreting the proceedings specified in subdivision (b); and

(2) Has been included on a list of recommended court interpreters which shall be established by the superior court in each county

(d) In the event that the only available interpreter is not considered to possess adequate interpreting skills for the particular situation, or the interpreter is not familiar with use of slang, the deaf person may be permitted by the court, tribunal, or hearing officer to nominate another person to act as intermediary between himself and the appointed qualified interpreter during the proceedings

(e) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which such action is pending. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board, agency, commission or licensing authority.

(f) No statement, written or oral, made by a person who is deaf in reply to a question of a peace officer, or any other person having prosecutorial function in any criminal or quasi-criminal proceeding, may be used against that deaf person unless either the statement was made or elicited through a qualified interpreter and was made knowingly, voluntarily, and intelligently, or the court makes a special finding that any statement made by a deaf person was made knowingly, voluntarily, and intelligently.

(g) In any action or proceeding in which a deaf person is a participant, the court or administrative authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the deaf person or persons involved as participants.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 1183

An act to amend Section 251 of, and to add Sections 229 and 268 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1 The Legislature finds and declares.

(a) Existing local, state and federal programs provide low interest loans for people who wish to rehabilitate their residences.

(b) In the absence of these programs, many residential dwellings and the neighborhoods in which they are located will continue to deteriorate unless a method is provided encouraging the use of state and federal rehabilitation programs

(c) Residential property owners tend to avoid private and public residential rehabilitation loan programs because of potential property tax increase due to rehabilitation. Consequently, such programs are not used to the fullest extent and residential areas continue to deteriorate.

(d) Creating a property tax deferral assessment program to be used in neighborhood rehabilitation areas will encourage people to use rehabilitation to improve their property, thereby improving the conditions of the neighborhood in general.

SEC. 2. Section 229 is added to the Revenue and Taxation Code, to read:

229. (a) That portion of the full value of a qualified dwelling which exceeds the full value of such dwelling prior to the rehabilitation of such dwelling, as determined by the assessor pursuant to subdivision (b) of Section 268, shall be exempt from taxation; provided that the amount of such exemption shall not exceed fifteen thousand dollars ($15,000) of the full value of each dwelling unit.

(b) This exemption shall apply to property for five fiscal years commencing with the fiscal year following the completion of rehabilitation of the qualified dwelling; provided that this exemption shall only apply after a claim for such exemption is filed pursuant to subdivision (c) of Section 268.

(c) An exemption for any further rehabilitation shall not be available during the five fiscal years in which a portion of the assessed value of a dwelling is exempt under subdivision (a)

(d) For the purposes of this section.

(1) "Qualified dwelling" means any residential structure of one or more dwelling units, which is within an area designated in subdivision (e).

(2) "Rehabilitation" means any repairs or improvements to a dwelling which will make such dwelling decent, safe and sanitary

and which are necessary in order for such dwelling to meet applicable state and local building and housing standards.

(e) This exemption shall only apply to property contained within an area which is:

(1) Designated by a local agency as part of such agency's community development block grant program under the Federal Housing and Community Development Act of 1974; or

(2) Designated by a local agency as an area of neighborhood revitalization in a program in which such agency is committing its own funds to neighborhood improvement, or

(3) Designated as neighborhood preservation areas by a local agency pursuant to a preservation program administered by the California Housing Finance Agency; or

(4) Designated as a historic preservation area under a local, state, or federal historic preservation program

(f) The exemption provided for in this section shall be known as the "residential rehabilitation exemption."

(g) With respect to properties rehabilitated with assistance from the California Housing Finance Agency, the residential rehabilitation exemption shall be considered in fixing rents as provided in Health and Safety Code Sections 41480 and 41482, so that, to the greatest extent possible, the benefits of the exemption accrue to tenants and prevent displacement of such tenants.

With respect to properties rehabilitated with assistance from a local agency pursuant to the authority established in Health and Safety Code Section 37910 and following, the residential rehabilitation exemption shall be considered in fixing rents as provided in Health and Safety Code Section 37922.5, so that, to the greatest extent possible, the benefits of the exemption accrue to tenants and prevent displacement of such tenants.

With respect to properties rehabilitated with assistance from a local agency utilizing federal funds, the residential rehabilitation exemption shall be considered in fixing rents, in those instances in which the local agency and the property owner have signed an agreement with respect to rental rates, so that, to the greatest extent possible, the benefits of the exemption accrue to tenants and prevent displacement of such tenants.

With respect to the properties rehabilitated with assistance from a local agency pursuant to the authority established under Health and Safety Code Section 37600 and following, the residential rehabilitation exemption shall be considered in fixing rents pursuant to Health and Safety Code Section 37627(6), so that to the greatest extent possible, the benefits of the exemption accrue to tenants and prevent displacement to such tenants.

SEC. 3. Section 251 of the Revenue and Taxation Code is amended to read:

251. The board shall prescribe all procedures and forms required to carry into effect the veterans', veterans' organization, church, cemetery, college, exhibition, immature forest trees, welfare, free

public libraries, free museums, public school, homeowners, residential rehabilitation, and transshipment property tax exemption.

SEC. 4. Section 268 is added to the Revenue and Taxation Code, to read.

268. (a) Any person who intends to claim the residential rehabilitation exemption shall, prior to commencing rehabilitation of the dwelling, file with the assessor an affidavit that such property is within an area which qualifies for such exemption and that rehabilitation of such dwelling will commence not later than six months after the date such affidavit is filed.

(b) The assessor, upon receipt of the affidavit, shall determine the full value of the dwelling prior to rehabilitation of such dwelling. Rehabilitation which is eligible for an exemption pursuant to subdivision (a) of Section 229 shall not commence prior to the determination of full value by the assessor.

(c) Upon completion of such rehabilitation, the owner or assessee of such property may file a claim with the assessor for the exemption under Section 229. Such claim may be filed at any time but not later than March 15 preceding the first fiscal year for which such exemption is claimed.

(d) The assessor, upon receipt of the claim for exemption pursuant to subdivision (c) shall determine the full value of such dwelling and shall determine the increased full value of such dwelling attributable to the rehabilitation of such dwelling for purposes of Section 229.

(e) The owner or assessee of property exempted pursuant to this section may claim an adjustment of any property valuation made under this section in the manner provided in Chapter 1 (commencing with Section 1601) of Part 3.

SEC. 5. Notwithstanding Sections 2229 and 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to such sections nor shall there be an appropriation made by this act because (1) this act will not become operative unless Senate Constitutional Amendment 29 of the 1977–78 Regular Session of the Legislature is approved by the voters, (2) if Senate Constitutional Amendment 29 is approved, any costs which are incurred by local agencies will not be incurred until the 1978–79 fiscal year and (3) the local revenue gains attributable to this act will offset local revenue losses. It is the intent of the Legislature to appropriate the necessary funds in the 1978–79 Budget in order to reimburse such local costs incurred by local governments as required by Section 2231 of the Revenue and Taxation Code.

SEC. 6. This act shall only become operative if Senate Constitutional Amendment 29 of the 1977–78 Regular Session of the Legislature is approved by the voters; in which case the provisions of this act shall be operative on the effective date of such Senate Constitutional Amendment 29.

CHAPTER 1184

An act to amend Sections 5057, 35016, 71000, 71001, and 71003 of, and to add Section 72023.5 to, the Education Code, relating to education.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1 Section 5057 of the Education Code is amended to read:

5057. The recall petition shall be signed by registered voters equal in number to at least 20 percent of the registered voters of the district as of the time of filing the petition for verification of signatures, except that a recall petition for a nonvoting student member of a community college district selected pursuant to Section 72023.5 shall be signed by community college students of the district equal in number to at least 20 percent of the community college students of the district as of the time of filing the petition for verification of signatures.

SEC 2. Section 35016 of the Education Code is amended to read:

35016. There may be submitted to the governing board of a school district maintaining one or more high schools a student petition requesting the governing board to appoint one or more nonvoting student members to the board pursuant to this section.

The petition shall contain the signatures of either (a) not less than 500 students regularly enrolled in high schools of the district, or (b) not less than 10 percent of the number of students regularly enrolled in high schools of the district, whichever is less.

Upon receipt of such a petition, the governing board shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting student member. The board may order the inclusion of more than one nonvoting student member.

Each such student shall have the right to attend each and all meetings of the governing board, except executive sessions

Any student selected to serve as the nonvoting member of the governing board shall be enrolled in a high school of the district, may be less than 18 years of age, and shall be chosen by the students enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a student member shall be one year commencing on July 1 of each year.

A nonvoting student member shall be entitled to the mileage allowance prescribed by Section 35147 to the same extent as regular members, but is not entitled to the compensation prescribed by

Section 35120.

A nonvoting student member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting student member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting student member shall not be liable for any acts of the governing board.

SEC. 3. Section 71000 of the Education Code is amended to read:

71000 There is in the state government a Board of Governors of the California Community Colleges, consisting of: 14 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate; and one voting student who is either a full-time or part-time student in good standing enrolled in a community college at the time of the appointment. The student member shall be appointed by the Governor for a one-year term commencing on October 15. The first voting student member appointed to the board shall occupy the seat on the board that is made available after the next full-term vacancy that occurs after January 1, 1978 Thereafter, such seat shall be designated as the voting student member seat and shall in the future be filled by community college students pursuant to this section and Section 71003.

SEC. 4. Section 71001 of the Education Code is amended to read.

71001. Except for the student member appointed by the Governor, the terms of office of the members of the board shall be four years.

The board shall annually select two of their members to serve as chairman, and vice chairman, respectively.

SEC. 5. Section 71001 of the Education Code is amended to read:

71001. Except for the student member appointed by the Governor, the terms of office of the members of the board shall be four years, provided, that commencing with January 15, 1978, appointments shall be as follows: Two appointments shall be for four years and one appointment shall be for five years; on January 15, 1979, one appointment shall be for four years and three appointments shall be for five years; on January 15, 1980, two appointments shall be for five years and one appointment shall be for six years; on January 15, 1981, one appointment shall be for five years and three appointments shall be for six years; thereafter, the terms of all appointments to the board of governors, except for the student member, shall be for six years.

The student member shall be appointed pursuant to this section and Sections 71000 and 71003 by the Governor as follows: On January 15, 1978, a student shall be appointed to serve as the student member through October 14, 1978; thereafter, a student shall be appointed to

a one-year term commencing on October 15.

The board shall annually select two of its members to serve as chairman, and vice chairman, respectively.

SEC 6. Section 71003 of the Education Code is amended to read:

71003 Except for the student member appointed by the Governor, any vacancy on the board shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. A vacancy in the office of the student member shall be filled by appointment by the Governor. The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

SEC 7. Section 72023.5 is added to the Education Code, to read:

72023.5. The governing board of each community college district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, one or more nonvoting students who are residents of the district Such students shall have the right to attend each and all meetings of the governing board, except that student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board.

The students selected to serve on the governing board, in addition to being residents of the district. shall be enrolled in a community college of the district and shall be chosen by the students enrolled in the community colleges of the district in accordance with procedures prescribed by the governing board. The term of the student members shall be one year commencing on July 1 of each year.

The nonvoting student members appointed pursuant to this section shall be entitled to the mileage allowance prescribed by Section 72123 to the same extent as regular members, but are not entitled to the compensation prescribed by Section 72425.

A nonvoting student member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting student member shall not be included in determining the vote required to carry any measure before the board

The nonvoting student member shall not be liable for any acts of the governing board.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 1491 are both chaptered and amend Section 71001 of the Education Code, and this bill is chaptered after Assembly Bill No. 1491, that the amendments to Section 71001 proposed by this bill and the basic concept of the amendments to Section 71001 proposed in Assembly Bill No. 1491 be given effect and incorporated in Section 71001 in the form set forth in Section 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill No. 1491 are both chaptered, both amend Section 71001, and

Assembly Bill No. 1491 is chaptered before this bill, in which case Section 4 of this act shall not become operative.

SEC. 9 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because duties, obligations, or responsibilities imposed on community college districts by this act are such that related costs are incurred as a part of their normal operating procedures

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CHAPTER 1185

An act to add Section 12615.5 to the Business and Professions Code, relating to pricing consumer commodities.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

The people of the State of California do enact as follows

SECTION 1. Section 12615.5 is added to the Business and Professions Code, to read:

12615.5. The violation of any provision of this chapter, except the provisions of Section 12604.5, is a misdemeanor punishable by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section, nor shall there be any appropriation made by this act, because the Legislature recognizes that, during any legislative session, a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1186

An act to amend Section 20022.2 of, and to add Sections 20750.21, 20750.33, 20750.88, 21220.1, 21228, 21363.7, 21263.8, and 22825.7 to, the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. Section 20022.2 of the Government Code, as added by Chapter 341 of the Statutes of 1976, is amended to read:

20022.2. Notwithstanding Section 20022, "compensation" shall not include any benefits paid pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division for any purpose of this part except that time during which such benefits are payable shall be considered as "a leave of absence with compensation" only for purposes of Section 21025.5.

SEC. 2 Section 20750.21 is added to the Government Code, to read:

20750.21. The state's contribution to the retirement fund in respect to state patrol members provided by any and all other provisions of this chapter is increased by a sum equal to 0.22 percent of the compensation paid such members by such employer.

SEC 3. Section 20750.33 is added to the Government Code, to read:

20750.33. The state's contribution to the retirement fund in respect to state safety members provided by any and all other provisions of this chapter is increased by a sum equal to 0.09 percent of the compensation paid such member by such employer.

SEC. 4 Section 20750.88 is added to the Government Code, to read:

20750.88. The state shall make contributions in addition to contributions otherwise specified in this chapter in a sum equal to 0.39 percent of the compensation paid state miscellaneous and industrial members.

SEC 5 Section 21220.1 is added to the Government Code, to read:

21220.1. The board shall report to the Governor and Legislature not later than April 1 of each year on the extent to which the purpose of Section 21220 is being achieved under the provisions of this article and the amount of supplementary increases in retirement allowances required to meet the objective of preserving the purchasing power of benefits provided by the system. The board shall also determine and report on the increase in the state contribution rate required to provide such supplementary increases for state members, other than school members.

SEC. 6. Section 21228 is added to the Government Code, to read:

21228. In addition to the increase in allowance authorized and granted pursuant to provisions of Section 21222, and notwithstanding the limitation on such increases imposed by this article, effective July 1, 1977, the monthly allowance paid with respect to a state member, other than a school member, who retired or died prior to January 1, 1976, shall be increased by 3 percent of the first four hundred dollars ($400) of such allowance; provided, however, that no increase under this section shall exceed twelve dollars ($12) per month.

The allowance as so increased shall be paid for time on and after July 1, 1977, and until April 1, 1978. The base allowance shall be the allowance as so increased and the base year shall be the calendar year

of 1976 for annual adjustments of allowances increased under this section for time commencing on April 1, 1978.

Where a member to or on account of whom an increased retirement allowance is payable under this section has elected pursuant to Article 4 (commencing with Section 21330) of Chapter 9 of this part to have his retirement allowance modified in accordance with an optional settlement provided in Section 21333, Section 21334, or Section 21335, if both the retired member and his beneficiary are living on the effective date of this section, the increase provided by this section shall be an amount equal to the percentage of the allowance being paid to the retired person, and upon death of the retired person, or upon death of his beneficiary if a different allowance is payable to the retired person because of such death, an equal percentage of the amount then payable to the survivor, and if either such retired person or his beneficiary is not living on said effective date, then the increase provided under this section shall be an amount equal to 3% of the first four hundred dollars ($400) of the allowance being paid to the survivor; provided, however, that no increase under this section shall exceed twelve dollars ($12) per month."

The allowance as so increased shall be paid for time on and after July 1, 1977, and until April 1, 1978. The base allowance shall be the allowance as so increased and the base year shall be the calendar year of 1976 for annual adjustments of allowances increased under this section for time commencing on April 1, 1978.

SEC. 7. Section 21263.7 is added to the Government Code, to read:

21263.7. The monthly allowances provided by Section 21263.4 and by 21263.5, as added by Chapter 175 of the Statutes of 1975, shall be paid on account of retired state miscellaneous members, other than school members, who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4 and whose retirement dates were effective before July 1, 1974, with respect to members who were not covered by the federal system, and before July 1, 1975, with respect to members who were covered under the federal system. Upon receipt of a written application by the board prior to October 1, 1978, the benefits provided by this section shall be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of service as a state member, provided that the retired member was alive and receiving a monthly allowance on June 30, 1974. Such benefits shall be subject to the same eligibility and termination provisions which apply to members at retirement and shall be paid only for the period of time commencing on the first of the month following receipt by the board of the application for such benefits.

SEC. 8. Section 21263.8 is added to the Government Code, to read:

21263.8. The retirement allowance payable to a state

miscellaneous member, other than a school member, whose retirement date was effective before July 1, 1974, with respect to a member who was not covered by the federal system, and before July 1, 1975, with respect to a member who was covered under the federal system, and who elected optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on July 1, 1977, and the allowance as so increased shall be paid for time on and after that date and until April 1, 1978. The base allowance for adjustments due on April 1, 1978, and subsequent annual adjustments under Article 1.5 (commencing with Section 21220) shall be the allowance as so increased. The allowance payable to the beneficiary or beneficiaries of a member described in this section shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

SEC. 9. Section 22825.7 is added to the Government Code, to read:

22825.7. The employer or the board shall pay monthly to an employee or annuitant who is enrolled in, or whose family member is enrolled in, a health benefits plan under this part providing supplemental benefits for persons enrolled under health insurance provisions of Title XVIII of the Federal Social Security Act, the amount of the standard charge exclusive of surcharge for late enrollment for insurance described in Part B under such act but not to exceed the difference between the maximum employer contribution under this article and the amount contributed by the employer to the cost of enrollment of the annuitant and his family members in a health benefit plan or plans under this part. No payment shall be made in any month in which such difference is less than one dollar ($1).

This section shall be applicable only to state employees and annuitants who were in state employment prior to their retirement and the family members of such annuitants.

With respect to annuitants, the board shall pay to the annuitant the amount required by this section from the same source from which their allowances are paid. Such amounts are hereby appropriated monthly from the General Fund to reimburse the board.

There is hereby appropriated from the appropriate funds the amounts required by this section to be paid to active state employees.

This section shall become operative January 1, 1978.

SEC. 10. The sum of ten million seven hundred eighty-one thousand dollars ($10,781,000) is hereby appropriated for expenditure for the purposes of this act during the 1977–78 fiscal year as follows:

(a) From the General Fund for transfer to and in augmentation of Items 379, 379.1, 379.2, 379.3, and 379.4 of the Budget Act of 1977 as allocated by the Director of Finance $7,100,000

(b) From special funds for transfer to and in augmentation of Item 380 of the Budget Act of 1977 ..... $1,569,000

(c) From nongovernmental cost funds for transfer to and in augmentation of Items 381 of the Budget Act of 1977 ..... $2,112,000

The moneys appropriated in this section may be expended for employee benefits, notwithstanding the limitation in the items of the Budget Act of 1977 augmented by this section that moneys appropriated in those items may be expended only for increases in employee benefits that are related to the salary increases funded in those items. Furthermore, this section shall not be construed to change the type or amount of increases in employee benefits that may be funded pursuant to the appropriations made in such items of the Budget Act of 1977.

SEC 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the benefits of this act to be available on the commencement of the 1977–78 fiscal year, this act must take effect immediately.

CHAPTER 1187

An act to amend Sections 35700, 35710, 35711, 35720, 35730, 35730.5, 35731, 35736, and 35738 of, and to amend the heading of Part 5 (commencing with Section 35700) of Division 24 of, the Health and Safety Code, relating to fair housing.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1. The heading of Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code is amended to read·

PART 5. FAIR HOUSING LAW

SEC 2. Section 35700 of the Health and Safety Code is amended to read·

35700. The practice of discrimination because of race, color, religion, sex, marital status, national origin, or ancestry in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies which

will eliminate such discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

SEC. 3. Section 35710 of the Health and Safety Code is amended to read:

35710. When used in this part:

1 The term "chief" means the Chief of the Division of Fair Employment Practices of the Department of Industrial Relations.

2. The term "commission" means the State Fair Employment Practice Commission created by Section 1414 of the Labor Code, and the term "commissioner" means a member of the commission.

3. The term "conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

4. The term "discrimination" includes refusal to sell, rent, or lease housing accommodations, includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when such housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with such housing accommodations; includes the cancellation or termination of a sale or rental agreement; and includes the provision of segregated or separated housing accommodations. The term "discrimination" does not include refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household.

5. The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

6. The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

7. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

SEC. 3.1. Section 35710 of the Health and Safety Code is amended to read:

35710. When used in this part:

(a) The term "chief" means the Chief of the Division of Fair Employment Practices of the Department of Industrial Relations.

(b) The term "commission" means the State Fair Employment Practice Commission created by Section 1414 of the Labor Code, and the term "commissioner" means a member of the commission.

(c) The term "conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(d) The term "discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when such housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations, includes provision of inferior terms, conditions, privileges, facilities, or services in connection with such housing accommodations; includes the cancellation or termination of a sale or rental agreement; and includes the provision of segregated or separated housing accommodations. The term "discrimination" does not include refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household.

(e) The term "division" means the Division of Fair Employment Practices in the Department of Industrial Relations.

(f) The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

(g) The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(h) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries

SEC. 4 Section 35711 of the Health and Safety Code is amended to read:

35711 The term "affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, or ancestry

SEC 5. Section 35720 of the Health and Safety Code is amended to read

35720. It shall be unlawful:

1. For the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of such person

2. For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, or ancestry of any person seeking to purchase, rent or lease any housing accommodation

3. For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, or ancestry or an intention to make any such preference, limitation, or discrimination

4 For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, sex, marital status, national origin, or ancestry with reference thereto.

5 For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions, or privileges relating to the obtaining or use of any such financial assistance

6 For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, or has testified or assisted in any proceeding under this part Nothing herein is intended to cause or permit the delay of an unlawful detainer action

7. For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

SEC 6 Section 35730 of the Health and Safety Code is amended to read:

35730 The commission is empowered to prevent and eliminate

discrimination in housing as provided in this part.

SEC 6.1. Section 35730 of the Health and Safety Code is amended to read:

35730. The commission and the division are empowered to prevent and eliminate discrimination in housing as provided in this part

SEC. 7 Section 35730.5 of the Health and Safety Code is amended to read:

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

(a) To meet and function at any place within the state

(b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(c) To obtain upon request and utilize the services of all governmental departments and agencies, and of conciliation councils.

(d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part

(e) To receive, investigate, and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed, color, sex, marital status, national origin, or ancestry

(f) To subpoena witnesses, both during the course of investigation of a case and in connection with a public hearing, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission; to hold hearings, subpoena witnesses, compel their attendance, administer oaths, and examine any person under oath.

(g) To create or provide financial or technical assistance to such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Advisory agencies created by the commission shall be composed of representative citizens, serving without pay.

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 7.1. Section 35730 5 of the Health and Safety Code is amended to read:

35730 5. The commission, in connection with its functions under this part, shall have the following powers and duties.

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations and standards (1) to interpret, implement, and apply Section 35720 of this part, pertaining to discrimination in housing, and Section 35711 of this part, pertaining to affirmative action in housing, (2) to regulate the conduct of hearings held pursuant to Section 35731 of this part and Section 1424 of the Labor Code, and (3) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Section 1424 of the Labor Code and Section 35732 of this part.

(c) To establish and maintain a principal office within this state.

(d) To meet and function at any place within the state.

(e) To appoint an executive secretary, and such hearing officers, attorneys, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create or provide financial or technical assistance to such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, and to foster, through community effort or otherwise, goodwill, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Advisory agencies created by the commission shall be composed of representative citizens, serving without pay

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations

SEC. 8. Section 35731 of the Health and Safety Code is amended to read:

35731. The commission is empowered to prevent and eliminate violations of Section 35720.

(a) Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the commission shall terminate proceedings upon notification of the entry of final judgment unless such judgment is a dismissal entered at the complainant's request.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

(b) The Attorney General, the commission, or the chief may, in a like manner, make, sign, and file such complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part.

(c) The commission may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice, and the provisions of that part which are not inconsistent with this part as to the powers, duties and rights of the commission, its chairman, members, attorneys or agents, the complainant, the respondent, the Attorney General and the superior court, shall apply to any proceeding under the provisions of this section.

(d) If an accusation is not issued within 90 days after the filing of a complaint, or if the commission earlier determines that no accusation will issue, the commission shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 90-day period, whichever date first occurs. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within one year from the date such notice is mailed. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to such alleged violation are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. In a civil action brought

under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

SEC. 8.1. Section 35731 of the Health and Safety Code is amended to read:

35731 The commission and the division are empowered to prevent and eliminate violations of Section 35720

(a) Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the division a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the division.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the division shall terminate proceedings upon notification of the entry of final judgment unless such judgment is a dismissal entered at the complainant's request.

(b) The Attorney General, the commission, or the chief may, in a like manner, make, sign, and file such complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence

(c) The division may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice.

(d) If an accusation is not issued within 90 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 90-day period, whichever date first occurs. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within one year from the date such notice is mailed. The superior courts of the the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to such alleged violation are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal

office. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

SEC. 9 Section 35736 of the Health and Safety Code is amended to read:

35736. When a person is contacted by the commission, a commissioner, or a member of the commission's staff, following the filing of a complaint against that person, the person shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, the person shall be informed that all matters relating thereto are privileged.

SEC 9.1. Section 35736 of the Health and Safety Code is amended to read:

35736. When a person is contacted by the division, a commissioner, or a member of the division's staff, following the filing of a complaint against that person, the person shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion, and if it is for conference, conciliation, or persuasion, the person shall be informed that all matters relating thereto are privileged.

SEC 10 Section 35738 of the Health and Safety Code is amended to read:

35738. If the commission finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take such actions, as, in the judgment of the commission, will effectuate the purpose of this part including, but not limited to.

(1) The sale or rental of the housing accommodation if it is still available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (5) of Section 35720 in the purchase, organization, or construction of the housing accommodation, if available, or,

(2) The payment of actual and punitive damages to the aggrieved person in an amount not to exceed one thousand dollars ($1,000); or,

(3) Affirmative or prospective relief.

However, no remedy shall be available to the aggrieved person unless the aggrieved person waives any and all rights or claims under Section 52 of the Civil Code prior to receiving a remedy, and signs a written waiver to that effect.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such

respondent. A copy of its order shall be delivered in all cases to the Attorney General and such other public officers as the commission deems proper.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 10.1. Section 35738 of the Health and Safety Code is amended to read:

35738. If the commission, after hearing finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take such actions, as, in the judgment of the commission, will effectuate the purpose of this part, including, but not limited to:

(1) The sale or rental of the housing accommodation if it is still available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (5) of Section 35720 in the purchase, organization, or construction of the housing accommodation, if available; or,

(2) The payment of actual and punitive damages to the aggrieved person in an amount not to exceed one thousand dollars ($1,000); or,

(3) Affirmative or prospective relief.

However, no remedy shall be available to the aggrieved person unless the aggrieved person waives any and all rights or claims under Section 52 of the Civil Code prior to receiving a remedy, and signs a written waiver to that effect.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 11. It is the intent of the Legislature, if this bill and Assembly Bill No. 738 are both chaptered and become effective January 1, 1978, both bills amend Sections 35710, 35730, 35730.5, 35731, 35736, and 35738 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 738, that the amendments to Sections 35710, 35730, 35730.5, 35731, 35736, and 35738 proposed by both bills be given effect and incorporated in Sections 35710, 35730, 35730.5, 35731, 35736, and 35738 in the form set forth in Sections 3.1, 6.1, 7.1, 8.1, 9.1, and 10.1 of this act. Therefore, Sections 3.1, 6.1, 7.1,

8.1, 9.1, and 10.1 of this act shall become operative only if this bill and Assembly Bill No. 738 are both chaptered and become effective January 1, 1978, both amend Sections 35710, 35730, 35730.5, 35731, 35736, and 35738, and this bill is chaptered after Assembly Bill No. 738, in which case Sections 3, 6, 7, 8, 9, and 10 of this act shall not become operative.

CHAPTER 1188

An act to amend Sections 35710, 35730, 35730.5, 35731, 35733, 35734, 35735, 35736, 35737, and 35738 of, to add Section 35730.6 to, and to repeal and add Section 35732 of, the Health and Safety Code, and to amend Sections 1415, 1419, 1419.5, 1419.7, 1419.9, 1426, 1426.5, 1429, 1430, and 1431 of, to add Sections 1413.1, 1419.1, 1421.2, 1427, 1429.1, and 1430.1 to, to repeal and add Sections 1418, 1421, 1421.1, 1422, 1422.1, 1422.2, 1424, and 1425 of, and to repeal Sections 1415.5, 1423 and 1427 of, the Labor Code, relating to fair employment practices.

[Approved by Governor September 30, 1977 Filed with Secretary of State September 30, 1977]

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

SECTION 1 Section 35710 of the Health and Safety Code is amended to read:

35710. When used in this part:

(a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers or other fiduciaries.

(b) The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home residence or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

(c) The term "publicly assisted housing accommodation" includes any housing accommodation within the state:

(1) Which at the time of any alleged unlawful discrimination under Section 35720 is granted exemption in whole or in part from taxes levied by the state or any of its political subdivisions; provided, that nothing herein contained shall apply to any housing accommodations solely because the owner thereof enjoys any type of tax exemption by virtue of his veteran status.

(2) Which is constructed on land sold below cost by the state or

any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949.

(3) Which is constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction.

(4) The acquisition or construction of which is, at the time of any alleged unlawful discrimination under Section 35720, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.

(d) The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(e) The term "discriminate" includes to segregate or separate.

(f) The term "multiple dwelling" means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery public institution, or a building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one housing accommodation occupied by not more than two families The term "family" means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

(g) The term "commission" means the State Fair Employment Practice Commission created by Section 1414 of the Labor Code.

(h) The term "division" means the Division of Fair Employment Practices in the Department of Industrial Relations.

(i) The term "chief" means the chief of the division provided for in Sections 57 and 1419 1 of the Labor Code.

SEC. 1.1. Section 35710 of the Health and Safety Code is amended to read:

35710. When used in this part:

(a) The term "chief" means the Chief of the Division of Fair Employment Practices of the Department of Industrial Relations.

(b) The term "commission" means the State Fair Employment Practice Commission created by Section 1414 of the Labor Code, and the term "commissioner" means a member of the commission

(c) The term "conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(d) The term "discrimination" includes refusal to sell, rent, or lease housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when such housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with such housing accommodations; includes the cancellation or termination of a sale or rental agreement; and includes the provision of segregated or separated housing accommodations The term "discrimination" does not include refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household.

(e) The term "division" means the Division of Fair Employment Practices in the Department of Industrial Relations.

(f) The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit, provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed

(g) The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof

(h) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

SEC 2. Section 35730 of the Health and Safety Code is amended to read

35730 The commission and the division are empowered to prevent violations of Section 35720, after a verified complaint has been filed with the division pursuant to Section 35731

SEC 2 1. Section 35730 of the Health and Safety Code is amended to read·

35730 The commission and the division are empowered to prevent and eliminate discrimination in housing as provided in this part.

SEC. 3. Section 35730.5 of the Health and Safety Code is amended to read:

35730 5. The commission, in connection with its functions under this part, shall have the following powers and duties.

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations and standards (1) to interpret, implement, and apply Section 35720 of this part, pertaining to discrimination in housing, and Section 35711 of this part, pertaining to affirmative action in housing, (2) to regulate the conduct of hearings held pursuant to Section 35731 of this part and Section 1424 of the Labor Code, and (3) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Section 1424 of the Labor Code and Section 35732 of this part.

(c) To establish and maintain a principal office within this state.

(d) To meet and function at any place within the state.

(e) To appoint an executive secretary, attorneys, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 3.1. Section 35730.5 of the Health and Safety Code is amended to read:

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations and standards (1) to interpret, implement, and apply

Section 35720 of this part, pertaining to discrimination in housing, and Section 35711 of this part, pertaining to affirmative action in housing, (2) to regulate the conduct of hearings held pursuant to Section 35731 of this part and Section 1424 of the Labor Code, and (3) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Section 1424 of the Labor Code and Section 35732 of this part

(c) To establish and maintain a principal office within this state.

(d) To meet and function at any place within the state.

(e) To appoint an executive secretary, and such hearing officers, attorneys, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create or provide financial or technical assistance to such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Advisory agencies created by the commission shall be composed of representative citizens, serving without pay

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 4 Section 35730.6 is added to the Health and Safety Code, to read.

35730.6. The division, in connection with its functions under this part, shall have the following powers and duties:

(a) To establish and maintain a principal office and such other offices within this state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within

the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the division pursuant to this part.

(f) To receive, investigate and conciliate complaints alleging discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(g) To subpoena witnesses, compel their attendance, administer oaths, examine any person under oath or by sworn interrogatory, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the division.

(h) To issue accusations pursuant to Section 1422.2 of the Labor Code and Section 35732 of this part, and to prosecute such accusations before the commission.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(j) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 4.1. Section 35730.6 is added to the Health and Safety Code, to read:

35730.6. The division, in connection with its functions under this part, shall have the following powers and duties:

(a) To establish and maintain a principal office and such other offices within this state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies, and of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the division pursuant to this part.

(f) To receive, investigate and conciliate complaints alleging discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(g) To subpoena witnesses, compel their attendance, administer oaths, examine any person under oath or by sworn interrogatory, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the division.

(h) To issue accusations pursuant to Section 1422 2 of the Labor Code and Section 35732 of this part, and to prosecute such accusations before the commission

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in housing because of race, religious creed, color, sex, marital status, national origin, or ancestry

(j) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations

SEC. 5. Section 35731 of the Health and Safety Code is amended to read:

35731. Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the division a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the division. However, no such complaint may be made or filed unless the person claiming to be aggrieved waives any and all rights or claims that he may have under Section 52 of the Civil Code and signs a written waiver to that effect.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

The division may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice.

SEC. 5.1. Section 35731 of the Health and Safety Code is amended to read:

35731. The commission and the division are empowered to prevent and eliminate violations of Section 35720.

(a) Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the division a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the division.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the division shall terminate proceedings upon notification of the entry of final judgment unless such judgment is a dismissal entered at the complainant's request.

(b) The Attorney General, the commission, or the chief may, in

a like manner, make, sign, and file such complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days., if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

(c) The division may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4 5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice.

(d) If an accusation is not issued within 150 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 150-day period, whichever date first occurs. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within one year from the date such notice is mailed. The superior courts of the the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to such alleged violation are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

SEC. 6. Section 35732 of the Health and Safety Code is repealed.

SEC. 7. Section 35732 is added to the Health and Safety Code, to read:

35732. (a) In the case of failure to eliminate a violation of Section 35720 through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the chief in his discretion may cause to be issued in the name of the division a written accusation, in the same manner and with the same powers as provided in Section 1422.2 of the Labor Code.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall so notify the person claiming to be aggrieved. Within one year of receipt of such notice, any person claiming to be aggrieved may bring a civil action under this part against the person, owner, or financial institution named in the verified complaint The Superior Court of the State of California shall have jurisdiction of such actions. Such an action may be brought in

any county in the state in which the discrimination is alleged to have been committed, or in the county in which the financial records relevant to such practice are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county in which the defendant has his residence or his principal office.

(c) The commission shall hold hearings on accusations issued pursuant to subdivision (a) in the same manner and with the same powers as provided in Sections 1424 through 1427, inclusive, of the Labor Code.

(d) Within one year of the effective date of every final order or decision issued pursuant to this part, the division shall conduct a compliance review to determine whether such order or decision has been fully obeyed and implemented.

Whenever the division believes, on the basis of evidence presented to it, that any person is violating or is about to violate any final order or decision issued pursuant to this part, the division may bring an action in the Superior Court of the State of California against such person to enjoin him from continuing the violation or engaging therein or in doing anything in furtherance thereof. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction as may be proper. Such an action may be brought in any county in which actions may be brought under subdivision (b)

SEC. 7.1. Section 35732 is added to the Health and Safety Code, to read:

35732. (a) In the case of failure to eliminate a violation of Section 35720 through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the chief in his discretion may cause to be issued in the name of the division a written accusation, in the same manner and with the same powers as provided in Section 1422.2 of the Labor Code

(b) The commission shall hold hearings on accusations issued pursuant to subdivision (a) in the same manner and with the same powers as provided in Sections 1424 through 1427, inclusive, of the Labor Code.

(c) Within one year of the effective date of every final order or decision issued pursuant to this part, the division shall conduct a compliance review to determine whether such order or decision has been fully obeyed and implemented.

Whenever the division believes, on the basis of evidence presented to it, that any person is violating or is about to violate any final order or decision issued pursuant to this part, the division may bring an action in the Superior Court of the State of California against such person to enjoin him from continuing the violation or engaging therein or in doing anything in furtherance thereof. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction as may be proper. Such an action may be brought in any county in which

actions may be brought under subdivision (d) of Section 35731

SEC. 8. Section 35733 of the Health and Safety Code is amended to read:

35733. After a verified complaint has been filed with the division pursuant to Section 35731, and the preliminary investigation thereof has been carried out or a 20-day period has elapsed from the filing of the verified complaint, if the preliminary investigation has not then been completed, an appropriate superior court may, upon the motion of the respondent, order the division to give to the respondent, within a specified time, a copy of any book, document, or paper, or any entries therein, in the possession or under the control of the division, containing evidence relating to the merits of the verified complaint, or to a defense thereto. The division shall comply with such an order.

SEC. 9. Section 35734 of the Health and Safety Code is amended to read:

35734. The division, at any time after a complaint is filed with it and it has been determined that probable cause exists for believing that the allegations of the complaint are true and constitute a violation of this part, may bring an action in the superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the division has completed its investigation and made its determination; but a temporary restraining order obtained under this section shall not, in any event, be in effect for more than 20 days. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction in accordance with Section 527 of the Code of Civil Procedure

SEC. 10. Section 35735 of the Health and Safety Code is amended to read:

35735. All matters connected with any conference, conciliation, or persuasion efforts under this part are privileged and may not be received in evidence The members of the division and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the division or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

SEC. 11. Section 35736 of the Health and Safety Code is amended to read:

35736. When an owner is contacted by the division, or a member of the division's staff, he shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, he shall be informed that all matters relating thereto are privileged.

SEC. 11.1. Section 35736 of the Health and Safety Code is amended to read:

35736. When a person is contacted by the division, a

commissioner, or a member of the division's staff, following the filing of a complaint against that person, the person shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion, and if it is for conference, conciliation, or persuasion, the person shall be informed that all matters relating thereto are privileged

SEC. 12. Section 35737 of the Health and Safety Code is amended to read:

35737. The division shall without undue delay cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the owner alleged to have committed the violation complained of.

SEC. 13. Section 35738 of the Health and Safety Code is amended to read·

35738. If the commission, after hearing, finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take one of the following affirmative actions, as, in the judgment of the commission, will effectuate the purpose of this part:

(1) The sale or rental of the housing accommodation to the aggrieved person, if it is still available.

(2) The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.

(3) The payment of damages to the aggrieved person in an amount not to exceed one thousand dollars ($1,000), if the commission determines that neither of the remedies under (1) or (2) is available.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 13.1. Section 35738 of the Health and Safety Code is amended to read:

35738. If the commission, after hearing, finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take such actions, as, in the judgment of the commission, will effectuate the purpose of this part, including, but not limited to:

(1) The sale or rental of the housing accommodation if it is still

available, or the sale or rental of a like housing accommodation, if one is available, or the provision of financial assistance, terms, conditions, or privileges previously denied in violation of subdivision (5) of Section 35720 in the purchase, organization, or construction of the housing accommodation, if available; or,

(2) The payment of actual and punitive damages to the aggrieved person in an amount not to exceed one thousand dollars ($1,000); or,

(3) Affirmative or prospective relief.

However, no remedy shall be available to the aggrieved person unless the aggrieved person waives any and all rights or claims under Section 52 of the Civil Code prior to receiving a remedy, and signs a written waiver to that effect.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 14. Section 1413.1 is added to the Labor Code, to read:

1413.1. "Division," as used in this part, means the Division of Fair Employment Practices in the Department of Industrial Relations.

SEC. 15. Section 1415 of the Labor Code is amended to read:

1415. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed. Three members of the commission shall constitute a quorum for the purpose of conducting the business thereof.

SEC. 16. Section 1415.5 of the Labor Code is repealed.

SEC. 17. Section 1418 of the Labor Code is repealed.

SEC. 18. Section 1418 is added to the Labor Code, to read:

1418. The commission shall have the following functions, powers and duties:

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations, and standards (1) to interpret, implement, and apply Sections 1411, 1420, 1420.1, 1420.2, 1431, 1432, and 1432.5, pertaining to unlawful employment practices, affirmative action, and public work contracts, (2) to regulate the conduct of hearings held pursuant to Section 1424, and (3) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Section 1424

(c) To establish and maintain a principal office within the state.

(d) To meet and function at any place within the state

(e) To appoint an executive secretary, and such attorneys and other employees as it may deem necessary, fix their compensation

within the limitations provided by law, and prescribe their duties

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) With respect to findings and orders made pursuant to Section 1424, to establish a system of published opinions which shall serve as precedent in interpreting and applying Sections 1420, 1420.1, and 1431, as well as of any other section of this part on which the commission is authorized to issue findings or orders.

SEC 19. Section 1419 of the Labor Code is amended to read:

1419. The division shall have the following functions, powers and duties:

(a) To establish and maintain a principal office and such other offices within the state as are necessary to carry out the purposes of this part

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the division pursuant to this part.

(f) (1) To receive, investigate and conciliate complaints alleging discrimination in employment because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply

(g) To subpoena witnesses, compel their attendance, administer oaths, examine any person under oath or by sworn interrogatory,

and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the division.

(h) To issue accusations pursuant to Section 1422.2 and to prosecute such accusations before the commission.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

(j) To investigate, approve, and certify equal employment opportunity programs proposed by a contractor to be engaged in pursuant to subdivision (b) of Section 1431

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 20. Section 1419.1 is added to the Labor Code, to read:

1419.1. There shall be a chief of the division who shall be appointed by the Governor. The chief of the division shall serve at the pleasure of the director.

SEC. 21. Section 1419.5 of the Labor Code is amended to read:

1419.5. The commission and the division are empowered to prevent discrimination in housing as provided in Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code.

SEC. 22. Section 1419.7 of the Labor Code is amended to read:

1419.7. The division may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, marital status, or ancestry which impair the rights of persons in such communities under the Constitution or laws of the United States or of this state. The services of the division may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The division's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the division pursuant to this section shall be limited to endeavors at conference, conciliation, and persuasion.

SEC. 23. Section 1419.9 of the Labor Code is amended to read:

1419.9. (a) The division shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate state or local, public, or private agencies, and may cooperate in such endeavors with the Federal Community Relations Service.

(b) The Legislature recognizes that the avoidance of discriminatory practices in the employment of disabled persons is most effectively achieved through the ongoing efforts of state agencies involved in the vocational rehabilitation and job placement

of the disabled. The division may utilize the efforts and experience of the Department of Rehabilitation in the development of job opportunities for the disabled by requesting the Department of Rehabilitation to foster good will and to conciliate on employment policies with employers who, in the judgment of the division, have employment practices or policies that discriminate against disabled persons. Nothing contained in this paragraph shall be construed to transfer any of the functions, powers, or duties from the division to the Department of Rehabilitation.

(c) The activities of the division in providing conciliation assistance shall be conducted in confidence and without publicity, and the division shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No employee of the division shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the division. Any employee of the division, who makes public in any manner whatever any information in violation of this subdivision, is guilty of a misdemeanor and, if a member of the state civil service, shall be subject to disciplinary action under the State Civil Service Act. When contacted by the division, employers, labor organizations, or employment agencies shall be informed whether a particular discussion, or portion thereof, constitutes either: (1) endeavors at conference, conciliation and persuasion which may not be disclosed by the division or received in evidence in any formal hearing or court action; or (2) investigative processes, which are not so protected.

SEC. 24. Section 1421 of the Labor Code is repealed.

SEC. 25. Section 1421 is added to the Labor Code, to read:

1421. The division is empowered to prevent unlawful employment practices. Any person claiming to be aggrieved by an alleged unlawful employment practice may file with the division a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the division. The chief or his authorized representative may in like manner, on his own motion, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this part may file with the division a verified complaint asking for assistance by conciliation or other remedial action.

No complaint may be filed after the expiration of one year from the date upon which the alleged unlawful employment practice or refusal to cooperate occurred; except that this period may be extended for not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by an unlawful employment practice first obtained knowledge of the facts of the alleged unlawful

employment practice after the expiration of one year from the date of their occurrence.

Complaints alleging a violation of subdivision (c) of Section 1420 shall be filed as provided in Section 3096

SEC. 26. Section 1421.1 of the Labor Code is repealed.

SEC. 27. Section 1421.1 is added to the Labor Code, to read.

1421.1. Where an unlawful employment practice alleged in a verified complaint adversely affects in a similar manner a group or class of persons of which the aggrieved person filing the complaint is a member, or where such an unlawful employment practice raises questions of law or fact which are common to such a group or class, the aggrieved person may file the complaint on behalf and as representative of such a group or class A complaint so filed shall be investigated as a group or class complaint, and, if in the judgment of the chief circumstances warrant, shall be treated as such for purposes of conciliation and accusation. Where an accusation is issued as a group or class accusation, the case shall be treated as a group or class case for all other purposes of this part, including, but not limited to, hearing, determination, reconsideration, and judicial proceedings.

SEC. 28. Section 1421.2 is added to the Labor Code, to read:

1421.2. The division shall cause any verified complaint filed under the provisions of this part to be served, either personally or by certified mail with return receipt requested, upon the person, employer, labor organization, or employment agency alleged to have committed the unlawful employment practice complained of. Service shall be made at the time of initial contact with such person, employer, labor organization, or employment agency or the agents thereof, or within 45 days, whichever first occurs. At the discretion of the chief, the complaint shall not contain the name of the complaining party unless such complaint is filed by the chief or his authorized representative.

SEC. 29. Section 1422 of the Labor Code is repealed.

SEC. 30 Section 1422 is added to the Labor Code, to read·

1422. After the filing of any complaint alleging facts sufficient to constitute a violation of any of the provisions of Section 1420 or 1420 1, the division shall make prompt investigation in connection therewith. If the division determines after investigation that the complaint is valid, the division shall immediately endeavor to eliminate the unlawful employment practice complained of by conference, conciliation and persuasion. The staff of the division shall not disclose what has transpired in the course of any endeavors to eliminate the unlawful employment practice through conference, conciliation, and persuasion.

Any member of the staff of the division who discloses information in violation of the requirements of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

SEC. 31. Section 1422.1 of the Labor Code is repealed.

SEC. 32. Section 1422.1 is added to the Labor Code, to read:

1422.1. Any agreement entered into by conference, conciliation and persuasion shall be reduced to writing, signed by all parties, and approved by the chief or his authorized representative. Within one year of the effective date of every such agreement, the division shall conduct a compliance review to determine whether such agreement has been fully obeyed and implemented. Whenever the division believes, on the basis of evidence presented to it, that any person is violating or about to violate any such agreement, the division may bring an action in the Superior Court of the State of California in the same manner as actions may be brought under Section 1429.

SEC. 33. Section 1422.2 of the Labor Code is repealed.

SEC. 34. Section 1422.2 is added to the Labor Code, to read:

1422.2. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the chief in his discretion may cause to be issued in the name of the division a written accusation. The accusation shall contain the name of the person, employer, labor organization or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing. An accusation shall be issued, if at all, within one year after the filing of a complaint.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall so notify the person claiming to be aggrieved. Within one year of receipt of such notice, any person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization or employment agency named in the verified complaint. The Superior Court of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the unlawful employment practice is alleged to have been committed, in the county in which the employment records relevant to such practice are maintained and administered, or in the county in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the defendant is not found within any such county, such an action may be brought within the county in which the defendant has his residence or his principal office. Such actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where such persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants.

SEC. 35. Section 1423 of the Labor Code is repealed.

SEC. 36. Section 1424 of the Labor Code is repealed.

SEC. 37. Section 1424 is added to the Labor Code, to read:

1424. The commission shall hold hearings on accusations issued

pursuant to Section 1422.2 and shall determine the issues raised therein.

SEC. 38. Section 1425 of the Labor Code is repealed.

SEC. 39. Section 1425 is added to the Labor Code, to read:

1425. Hearings shall take place not more than 90 days after the issuance of the accusation upon which they are based.

SEC. 40. Section 1426 of the Labor Code is amended to read:

1426. If the commission finds that a respondent has engaged in any unlawful employment practice as defined in this part, it shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice and to take such action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership in any respondent labor organization, as, in the judgment of the commission, will effectuate the purposes of this part, and including a requirement for report of the manner of compliance. If the commission finds that a respondent has not engaged in any such unlawful employment practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing such accusation as to such respondent

Any order issued by the commission shall have printed on its face references to the provisions of this part which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 41. Section 1426.5 of the Labor Code is amended to read:

1426.5 If, at any time during the proceedings described in this part, after a complaint has been served on a respondent, the complaint is withdrawn by the complainant or dismissed by the division, or an investigation is terminated or closed by the division, notice of this fact shall be given to the respondent and the complainant without undue delay.

SEC. 42. Section 1427 of the Labor Code is repealed.

SEC. 43. Section 1427 is added to the Labor Code, to read:

1427. All actions and procedures of the commission shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 44. Section 1428 of the Labor Code is repealed.

SEC. 45. Section 1429 of the Labor Code is amended to read:

1429. Within one year of the effective date of every final order or decision issued pursuant to this part, the division shall conduct a compliance review to determine whether such order or decision has been fully obeyed and implemented.

Whenever the division believes, on the basis of evidence presented to it, that any person is violating or is about to violate any final order or decision issued pursuant to this part, the division may bring an action in the Superior Court of the State of California against such person to enjoin him from continuing the violation or engaging

therein or in doing anything in furtherance thereof. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction as may be proper. Such an action may be brought in any county in which actions may be brought under subdivision (b) of Section 1422.2.

SEC. 46. Section 1429.1 is added to the Labor Code, to read:

1429.1. Whenever a complaint is filed with the division and the division concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this part, the chief or his authorized representative may bring a civil action for appropriate temporary or preliminary relief pending final disposition of such complaint. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with Section 527 of the Code of Civil Procedure. An action seeking such temporary or preliminary relief may be brought in any county in which actions may be brought under subdivision (b) of Section 1422.2.

SEC. 47. Section 1430 of the Labor Code is amended to read:

1430. Any person who shall willfully resist, prevent, impede or interfere with any member of the division or any of its agents in the performance of duties pursuant to this part, or who shall in any manner willfully violate an order of the commission, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or both.

SEC. 48. Section 1430 1 is added to the Labor Code, to read:

1430.1. Employers, labor organizations, and employment agencies subject to the provisions of this part shall maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum of one year after such records and files are initially created Upon notice that a verified complaint against it has been filed under this part, any such employer, labor organization, or employment agency shall maintain and preserve any and all such records and files until such complaint is fully and finally disposed of and all appeals or related proceedings terminated. The commission shall adopt suitable rules, regulations, and standards to carry out the purposes of this section. Where necessary, the division, pursuant to its powers under Section 1429.1, may seek temporary or preliminary judicial relief to enforce this section. Any person who violates this section shall be guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or both.

SEC. 49. Section 1431 of the Labor Code is amended to read:

1431. (a) The Division of Fair Employment Practices may engage in affirmative actions with employers, employment agencies, and labor organizations in furtherance of the purposes of this part as expressed in Section 1411.

(b) Every contractor performing a public work contract in excess

of two hundred thousand dollars ($200,000) awarded by the state under Chapter 3 (commencing with Section 14250) of Part 5 of Division 3 of Title 2 of the Government Code or Chapter 9 (commencing with Section 90100) of Part 55 of Division 8 of Title 3 of the Education Code shall submit to the division an equal employment opportunity program for approval and certification by the division. Every such contractor whose program is approved and certified by the division shall immediately effectuate it.

SEC. 50. The operative date of this act shall be January 1, 1978. However, it is the intent of the Legislature that:

(a) Any verified complaint originally filed with the commission prior to January 1, 1978, shall not be subject to the time limitations on the filing of accusations contained in this act.

(b) Any accusation originally issued by the commission pursuant to a complaint described in subdivision (a) shall not be subject to the time limitations on the holding of a hearing contained in this act, so long as such accusation is originally issued prior to January 1, 1979.

(c) Any investigation authorized by the commission prior to January 1, 1978, under the authority of Section 1421 of the Labor Code, as it read prior to the effective date of this act, may continue as fully authorized up until July 1, 1979, on which date such authority shall cease to exist.

(d) This act shall not preclude or remove the authority of the commission, its staff, or the division, to monitor, require reporting, or seek enforcement of, any conciliation agreement, or final decisions entered or agreed to pursuant to Section 1421 of the Labor Code, or any other section of the Fair Employment Practices Act

SEC. 51. It is the intent of the Legislature, if this bill and Senate Bill No. 610 are both chaptered and become effective January 1, 1978, both bills amend Sections 35710, 35730, 35730.5, 35731, 35736, and 35738 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 610, that the amendments to Sections 35710, 35730, 35730.5, 35731, 35736, and 35738 proposed by both bills be given effect and incorporated in Sections 35710, 35730, 35730.5, 35731, 35736, and 35738 in the form set forth in Sections 1.1, 2.1, 3.1, 5.1, 11.1, and 13.1 of this act. Therefore, Sections 1.1, 2.1, 3.1, 4.1, 5.1, 11.1, and 13.1 of this act shall become operative only if this bill and Senate Bill No. 610 are both chaptered and become effective January 1, 1978, both amend Sections 35710, 35730, 35730.5, 35731, 35736, and 35738, and this bill is chaptered after Senate Bill No. 610, in which case Sections 1, 2, 3, 5, 11, and 13 of this act shall not become operative.

SEC. 52. It is the intent of the Legislature, if this bill and Senate Bill No. 610 are both chaptered and become effective January 1, 1978, that Section 4.1 of this act shall become operative and Section 4 of this act shall not become operative.

SEC. 53. It is the intent of the Legislature, if this bill and Senate Bill No. 610 are both chaptered and become effective January 1, 1978, that Section 7.1 of this act shall become operative and Section 7 of this act shall not become operative.

CHAPTER 1189

An act to amend Section 5006.45 of, and to amend and add Section 5006.47 to, the Public Resources Code, relating to the provision of recreational facilities, and making an appropriation therefor.

[Approved by Governor September 30, 1977. Filed with Secretary of State September 30, 1977.]

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

SECTION 1. Section 5006.45 of the Public Resources Code is amended to read:

5006.45. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser interest in such real and personal property located in the vicinity of Ocotillo Wells in San Diego County as is designated in writing to the Director of General Services by the Director of Parks and Recreation. If such property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and with the rental to be paid by the Department of Parks and Recreation.

(b) Prior to making any acquisition:

(1) The Director of Parks and Recreation shall recommend to the State Park and Recreation Commission his designation of lands presently owned by the department to be included in the vehicular recreation area provided in subdivision (d), and no acquisition may be made unless and until the commission has concurred in such designation.

(2) The director shall conduct at least one public hearing in San Diego County regarding the designation of lands presently owned by the department to be included in the vehicular recreation area. The director shall consider and be guided by testimony presented at the hearing.

(c) Any interest acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code) The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of such property or adjoining property for recreation and if the grantor or lessor of the surface of such property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(d) Upon acquisition of the interest, the Director of General Services shall forthwith transfer the interest to the jurisdiction of the department, which shall administer the property as a unit of the state

park system. The department shall carry out a program in such unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes. Areas for the recreational use of off-highway vehicles shall be administered pursuant to paragraph (3) of subdivision (d) of Section 5001.5.

(e) Any fees, rentals, or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

(f) The Director of Parks and Recreation shall review, and report annually to the State Park and Recreation Commission regarding, the development, maintenance, administration, and public usage of the vehicular recreation area and its success, effects on the environment, and appropriateness as a unit of the state park system.

SEC. 2. Section 5006.47 is added to the Public Resources Code, to read:

5006.47. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in such real and personal property in the Counties of Los Angeles and Ventura located in the vicinity of Gorman and commonly known as Hungry Valley as is designated in writing by the Director of Parks and Recreation. If such property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor after receiving concurrence by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(c) Upon acquisition of the property, the Director of General Services shall forthwith transfer jurisdiction over the property to the department, which shall administer the property as a unit of the state park system. The 51st District Agricultural Association may propose a name for the unit, which shall become the unit's name unless the State Park and Recreation Commission acts within 180 days of receiving the proposed name to select another name. The department shall carry out a program in such unit of development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to paragraph (3) of subdivision (d) of Section 5001.5. The 51st District Agricultural Association may use the land and facilities within the unit for a fair oriented to off-highway vehicles for not more than 10 days each year if the Director of Parks and Recreation approves such use. The director may impose such terms and conditions upon such use as the director deems necessary and

proper. The dates of such use shall be selected each year prior to January 1, and shall be subject to the approval of the Director of Parks and Recreation.

(d) The Director of General Services may offer all or part of such property for lease at any time if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. The leasing of such property shall be by competitive bid, and the lease shall be awarded for the highest responsible bid. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any such lease after jurisdiction over the property is transferred to the department pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 38270 of the Vehicle Code.

(e) Any fees or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 38270 of the Vehicle Code.

SEC. 3. Section 5006.47 of the Public Resources Code, as added by Assembly Bill No. 1098 of the 1977–78 Regular Session of the Legislature, is amended to read:

5006.47. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in such real and personal property in the Counties of Los Angeles and Ventura located in the vicinity of Gorman and commonly known as Hungry Valley as is designated in writing by the Director of Parks and Recreation to the Director of General Services. If such property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of such property or adjoining property for recreation and if the grantor or lessor of the surface of such property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(c) Upon acquisition of the property, the Director of General

Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The 51st District Agricultural Association may propose a name for the unit. The department shall carry out a program in such unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to paragraph (3) of subdivision (d) of Section 5001.5. The 51st District Agricultural Association may use the land and facilities within the unit for a fair oriented to off-highway vehicles for not more than 10 days each year if the Director of Parks and Recreation approves such use. The director may impose such terms and conditions upon such use as the director deems necessary and proper. The dates of such use shall be selected each year prior to January 1 and shall be subject to the approval of the Director of Parks and Recreation

(d) If the Director of General Services determines that it is necessary, in order to purchase the property, to offer to the person from whom it is being purchased an option to lease back all or part of such property, the director may make such an offer if the Director of Parks and Recreation determines at the time of the purchase that the property is not then needed for the purposes of the state park system and will not be needed for the term of the lease thus offered. At any time after the option expires the Director of General Services may offer, under competitive bidding procedures, all or part of such property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any such lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 38270 of the Vehicle Code

(e) Any fees or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 38270 of the Vehicle Code.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 1098 are both chaptered and become effective on or before January 1, 1978, both bills add Section 5006 47 to the Public Resources Code, and this bill is chaptered after Assembly Bill No. 1098, that Section 5006 47 of the Public Resources Code, as added by Section 1

of Assembly Bill No. 1098, be amended on the effective date of this act in the form set forth in Section 3 of this act to incorporate the provisions of Section 5006.47 proposed by this bill. Therefore, if this bill and Assembly Bill No. 1098 are both chaptered and become effective on or before January 1, 1978, and Assembly Bill No. 1098 is chaptered before this bill and adds Section 5006.47, Section 3 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

SEC. 5. The sum of fifty thousand six hundred ninety dollars ($50,690) is hereby appropriated from the Fair and Exposition Fund to the 51st District Agricultural Association for expenditure for any purpose authorized by law.

CHAPTER 1190

An act to amend Section 14010 of, to add Section 16561 to, to add Chapter 2 4 (commencing with Section 16145) to Part 4 of Division 9 of, and to repeal Section 11350.3 of, the Welfare and Institutions Code, relating to pregnancy, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. This act shall be known and may be cited as the Pregnancy Freedom of Choice Act.

SEC. 2. Chapter 2.4 (commencing with Section 16145) is added to Part 4 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 2.4. MATERNITY CARE FOR MINORS

16145. The Legislature finds that pregnancy among unmarried persons under 21 years of age constitutes an increasing social problem in the State of California. In order to have effective freedom of choice between an abortion and carrying pregnancy to term, the assistance of the state in addition to medical services is required. The problem can be alleviated effectively by a program of structured services, including counseling and residential treatment services, provided by licensed maternity homes.

16146. It is the policy of the State of California that when an unmarried person under 21 years of age who is domiciled in this state is pregnant, she shall be provided the services of a licensed maternity home at her request or the request of her parent or parents, and that these services shall not be denied by the state or any governmental agency thereof except on grounds specifically provided by statute.

16147. Notwithstanding any other provision of law, the parent or parents of a person under 21 years of age who is domiciled in this

state shall not be held financially responsible, nor shall financial contributions be requested or required of such parent or parents, for maternity home care, social service counseling, or other services related to pregnancy of the person which are provided by a licensed maternity home pursuant to this chapter

16148. From any funds appropriated therefor, the state shall reimburse nonprofit maternity homes licensed pursuant to state law for costs of care and services provided under the provisions of this chapter to unmarried pregnant persons under 21 years of age who are domiciled in this state. Such reimbursement shall not exceed nine hundred sixty-five dollars ($965) per month per person for the fiscal year ending June 30, 1978. Such maximum reimbursement may be increased each July 1 by the State Department of Health by an amount not to exceed 10 percent to reflect changes in the costs of providing such care and services.

For purposes of this section, "nonprofit maternity homes" include the following.

(a) Any maternity hospital which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) Any maternity home publicly owned or operated by a public utility or agency of this state.

16149. The State Department of Health shall adopt such regulations as are necessary to carry out the provisions of this chapter. Claims for reimbursement for expenses incurred for the maternity home services covered by this chapter shall be filed by licensed nonprofit maternity homes at the time and in the manner specified by the department, and the claims shall be subject to audit by the department

16150. Notwithstanding any other provisions of this code, the state may require the county to administer the provisions of this chapter, including contracting with maternity homes for reasonable costs of providing the services under this chapter.

16151. The following sums are hereby appropriated from the General Fund to the State Department of Health for reimbursing licensed maternity homes for the cost of care, social services, or other services related to pregnancy of unwed children provided pursuant to the provisions of the act enacting this chapter, in accordance with the following schedule:

(a) For the 1977–78 fiscal year $1,200,000

(b) For each fiscal year thereafter 2,400,000

SEC. 3 Section 11350 3 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 14010 of the Welfare and Institutions Code is amended to read·

14010. Notwithstanding any other provision of law, the parent or parents of a person under 21 years of age shall not be held financially responsible, nor shall financial contribution be requested or required

of such parent or parents for health care or related services to which the person may consent under any express provision of law, including, but not limited to, maternity home care, social service counseling, and other services related to pregnancy of the person which are provided by a licensed maternity home.

Federal financial participation in providing such services shall not be claimed to the extent that the exemption from financial responsibility provided by this section is inconsistent with federal law.

SEC. 5. Section 16561 is added to the Welfare and Institutions Code, to read:

16561. No county welfare department of a demonstration county shall require a pregnant minor to be adjudged a dependent child of the court under Section 300 or require the parents or guardians of the minor to consent to such action as a condition for agreeing to place such person in a maternity home pursuant to this chapter.

CHAPTER 1191

An act to add Chapter 5.1 (commencing with Section 2529) to Division 2 of the Business and Professions Code, relating to psychology and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 5.1 (commencing with Section 2529) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.1. RESEARCH PSYCHOANALYSTS

2529. Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Institute, or institutes deemed equivalent by the Division of Allied Health Professions who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in such institutes may engage in psychoanalysis under supervision, provided that such students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrist," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

Such students and graduates seeking to engage in psychoanalysis

under this chapter shall register with the Division of Allied Health Professions, presenting evidence of their student or graduate status. The division may suspend or revoke the exemption of such persons for unprofessional conduct as defined in Sections 2361 and 2361.5

2530. Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Board of Medical Quality Assurance of the State of California a fee to be fixed by the Division of Allied Health Professions at a sum not in excess of one hundred dollars ($100).

The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the Division of Allied Health Professions at a sum not in excess of fifty dollars ($50). Students seeking to renew their registration shall present to the Division of Allied Health Professions evidence of their continuing student status.

The money in the Contingent Fund of the Board of Medical Quality Assurance of the State of California necessary for the administration of this chapter is hereby continuously appropriated for such purposes.

CHAPTER 1192

An act to amend Sections 32510, 61306, 62705, 62707, 62712, 62717, 62719, and 62723 of, to add Sections 62702.1, 62707.1, 62708.1, and 62727 to, to repeal and add Sections 62708, 62708.5, and 62722 of, to add Article 11 (commencing with Section 61581) to Chapter 1 of Part 3 of Division 21 of, to repeal Article 8 (commencing with Section 61501) of Chapter 1 of Part 3 of Division 21 of, and to repeal and add Chapter 2 (commencing with Section 61801) to Part 3 of Division 21 of, the Food and Agricultural Code, relating to milk and dairy products, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 32510 of the Food and Agricultural Code is amended to read:

32510. "Market milk" means milk which conforms to the standards which are provided in Chapter 2 (commencing with Section 35751), Part 2, of this division. Market milk includes components and derivatives of market milk. Market milk may be supplied to the consumer in the fluid state or may also be utilized in the manufacture of milk products.

SEC. 2. Section 61306 of the Food and Agricultural Code is amended to read:

61306. "Distributor" means any person, that purchases or handles

market milk, market cream, or any dairy product for processing, manufacture, or sale It includes brokers and agents and the nonprofit cooperative associations described in Article 2 (commencing with Section 61331) of this chapter in the transactions in which such article provides that the associations are distributors. It also includes any person who regularly operates mobile vehicles on routes predominantly for sales of market milk, market cream, or dairy products on such routes to wholesale customers, or directly to consumers at their homes It does not, however, include any of the following:

(a) Any retail store or wholesale customer which is not actively and directly engaged in manufacturing, processing, or packaging milk, cream, or any dairy product.

(b) Any producer that delivers milk or cream only to a distributor or manufacturer. A retail store or a wholesale customer is a "distributor" only as to milk, cream, or any dairy product that is actively and directly processed, manufactured or packaged by such retail store or wholesale customer.

SEC 2.5 Article 8 (commencing with Section 61501) of Chapter 1 of Part 3 of Division 21 of the Food Agricultural Code is repealed.

SEC. 3. Article 11 (commencing with Section 61581) is added to Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code, to read:

Article 11 Temporary Pricing Authority

61581 The Legislature hereby finds and declares

(a) Since 1937, the director has established minimum wholesale and minimum retail prices for packaged milk under the provisions of Chapter 2 (commencing with Section 61801) of this part.

(b) The provisions of this article are intended to effectuate the purposes stated in Article 3 (commencing with Section 61341) of this chapter; to provide an orderly transition in the dairy industry from a long period of public establishment of minimum wholesale and minimum retail prices for packaged milk to a period where prices for such milk will be determined by open competition, subject to the provisions of this chapter; and to prevent the development of monopoly and destructive trade practices

61582 The director may, after investigation and public hearing, find and determine that within one or more sales areas, as to packaged milk, severe market disruption exists which prevents effectuation of the purposes and policies of this chapter and which tends to foster monopoly and other destructive trade practices In the event of such finding, the director may, for a temporary period of 90 days, declare in effect minimum wholesale or minimum retail prices, or both, for packaged milk, and enforce such minimum prices in the manner provided in Article 10 (commencing with Section 61571) of this chapter The director may extend such 90-day period, after public hearing, by one or more successive 90-day periods.

61583. The director, in establishing any minimum wholesale or minimum retail prices, or both, for packaged market milk under this article shall take into consideration the purposes and policies of this chapter and of Chapter 2 (commencing with Section 61801) of this part, and such evidence of reasonable and necessary costs of handling of packaged milk by distributors, retail stores and wholesale customers as is introduced before the director at public hearings held under this article

61584. For the purposes of this article:

(a) "Minimum wholesale prices" means the prices at which packaged milk shall be sold by distributors to wholesale customers;

(b) "Minimum retail prices" means the prices at which packaged milk shall be sold by distributors and retail stores to consumers.

SEC. 4. Chapter 2 (commencing with Section 61801) of Part 3 of Division 21 of the Food and Agricultural Code is repealed.

SEC. 5. Chapter 2 (commencing with Section 61801) is added to Part 3 of Division 21 of the Food and Agricultural Code, to read

CHAPTER 2. STABILIZATION AND MARKETING OF MARKET MILK

Article 1 Legislative Declarations

61801. The production and distribution of market milk and the dissemination of accurate, scientific information as to the importance of market milk and other dairy products in the maintenance of a high level of public health, is hereby declared to be a business affected with a public interest The provisions of this chapter are enacted in the exercise of police powers of this state for the purpose of protecting the health and welfare of the people of this state.

61802. The Legislature hereby declares all of the following:

(a) Market milk is a necessary article of food for human consumption.

(b) The production and maintenance of an adequate supply of healthful market milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare, and the production, transportation, processing, storage, distribution, or sale of market milk in this state is an industry affecting the public health and welfare.

(c) Unfair, unjust, destructive, and demoralizing trade practices have been carried on, are now being carried on, and because of the perishable quality of milk, the nature of milk production, the varying seasonal production and demand factors and other economic factors affecting the milk industry, the potential exists for the resumption and furtherance of such practices, in the absence of regulation, in the production, marketing, sale, processing, or distribution of market milk which constitute a constant menace to the health and welfare of the inhabitants of this state and tend to undermine sanitary regulations and standards of content and purity, however effectually such sanitary regulations may be enforced

(d) Health regulations alone are insufficient to prevent disturbances in the milk industry which threaten to destroy and seriously impair the future supply of market milk, and to safeguard the consuming public from future inadequacy of a supply of this necessary commodity.

(e) It is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including market milk, and to eliminate speculation, waste, improper marketing, unfair and destructive trade practices, and improper accounting for market milk purchased from producers.

(f) It is recognized by the Legislature that the economic factors concerning the production, marketing, sale, processing and distribution of market milk in California may be affected by the national market for milk for manufacturing purposes.

(g) It is recognized by the Legislature that in recent years the supply of manufacturing milk in California, as defined in Section 32059, has consistently declined and continues to decline, and that market milk has virtually supplanted manufacturing milk for manufacturing purposes in this state, and that it is therefore in the public interest to conform the pricing standards governing minimum producer prices for market milk established under this chapter to current economic conditions

61803 It is recognized by the Legislature that conditions within the milk industry of this state are such that it is necessary to establish marketing areas wherein different prices and regulations are necessary, and for that purpose the director shall have the administrative authority, with such additional duties as are herein prescribed, after investigation and public hearing, to prescribe such marketing areas and modify the same when advisable or necessary.

61804 The foregoing statements in this article of facts, policy, and application of this chapter are hereby declared a matter of legislative determination.

61805. The purposes of this chapter are to do all of the following:

(a) Provide funds for administration and enforcement of this chapter, by assessments to be paid by producers and handlers of market milk in the manner prescribed in this chapter.

(b) Authorize and enable the director to prescribe marketing areas and to determine minimum prices to be paid to producers by handlers for market milk which are necessary due to varying factors of costs of production, health regulations, transportation and other factors in such marketing areas of this state. In determining minimum prices to be paid producers by handlers, the director shall endeavor under like conditions to achieve uniformity of cost to handlers for market milk within any marketing area; provided, however, that no minimum prices established or determined under the provisions of this chapter shall be invalid because uniformity of cost to handlers for market milk in any marketing area is not achieved as a result of the minimum producer prices so established

or determined.

(c) Authorize and enable the director to formulate stabilization and marketing plans subject to the limitations prescribed in this chapter with respect to the contents of such stabilization and marketing plans and to declare such plans in effect for any marketing area

(d) Enable the dairy industry, with the aid of the state, to correct existing evils, develop and maintain satisfactory marketing conditions, and bring about and maintain a reasonable amount of stability and prosperity in the production and marketing of market milk and provide means for carrying on essential educational activities

61806. It is the intent of the Legislature that the powers conferred in this chapter shall be liberally construed.

61807. Nothing in this chapter permits or authorizes the development of conditions of monopoly in the production of market milk. In the establishment of the terms and conditions under which market milk shall be purchased from producers, such terms and conditions shall be those which will, in the several localities and markets of the state, and under the varying conditions of production, insure an adequate and continuous supply of pure, fresh, wholesome market milk to consumers of the market milk at fair and reasonable prices

61808 The Legislature hereby declares that this chapter is intended to formulate a comprehensive scheme for the regulation of marketing milk. If, however, any provision of, or addition or amendment to, this chapter, either as originally enacted in 1935 at the 51st Regular Session of the California Legislature, or as amended, added to, recodified, or reenacted at any subsequent session of the California Legislature, should be held to be unconstitutional, the unconstitutionality of such provision does not affect any other provision of this chapter.

61808 5. (a) On or before March 1, 1978, the director shall report to the Legislature his proposed procedural regulations to assure a fair, open, effective, and expeditious participation of all interested parties in the establishment of prices for milk

(b) On or before April 1, 1978, the director shall adopt procedural regulations for the submission and consideration of petitions and for the conduct of hearings

(c) On or before January 1. 1979, after consultation with interested consumer and industry representatives, the director shall report to the Legislature such evaluation and recommendations to the Legislature as he may develop for further evolution, refinement, clarification, and improvement of the mechanism or procedures for establishing milk prices. The object of his proposals shall be to maximize, to the extent feasible, public comprehension of the pricing process consistent with the other purposes of this chapter.

61809 If any article, section, subdivision, sentence, clause, or phrase of any provision of this chapter is for any reason held to be

unconstitutional, such decision does not affect the validity of the remaining provisions of this chapter. The Legislature hereby declares that it would have enacted each article, section, subdivision, sentence, clause, or phrase of this chapter irrespective of the fact that one or more other articles, sections, subdivisions, sentences, clauses, or phrases is declared unconstitutional.

61810. The provisions of Chapter 1 (commencing with Section 61301) and Chapter 3 (commencing with Section 62700) of this part shall be liberally construed as being complementary of, and supplemental to, the provisions of this chapter. The provisions of this chapter and of Chapter 1 (commencing with Section 61301) and Chapter 3 (commencing with Section 62700) shall be liberally construed as constituting a single comprehensive scheme for the regulation of the production, handling, distribution, and marketing of market milk; provided, however, that each such chapter, and each provision, article, section, subdivision, sentence, clause, and phrase of each such chapter is severable, and if one of such chapters or any provision, article, section, subdivision, sentence, clause or phrase of, or in, any one of such chapters is for any reason held void, invalid or unconstitutional, such decision shall not affect the validity of the other such chapter, or any of its provisions, articles, sections, subdivisions, sentences, clause or phrases.

61811 No provision of this chapter, or of any stabilization and marketing plan formulated by the director pursuant to this chapter, is any limitation upon the right of any handler or producer-handler including any nonprofit cooperative association of producers which association is also a handler, by reason of the form or nature of the legal entity under which such handler conducts business, to sell or handle market milk, or any dairy product at prices or upon terms and conditions according to, and within, the several methods of handling, at or subject to which the market milk or dairy product lawfully may be sold or handled by any other handler.

This section does not make lawful or permit the payment by any such handler to a producer for market milk of prices less than the minimum prices prescribed in the applicable stabilization and marketing plan

61812. Neither the repeal of former Chapter 2 of this part, the reenactment of this chapter nor the amendment of any provision of this chapter shall have the effect of terminating or invalidating any stabilization and marketing plan, including provisions thereunder regarding minimum prices to be paid producers for market milk, established by the director pursuant to this chapter or former Chapter 2 prior to the effective date of such repeal, enactment or amendment. The director shall, however, establish minimum prices pursuant to the provisions of such repeal, enactment or amendment at the earliest practicable date after the effective date of such amendment.

Article 2. Definitions

61821 Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

61822. "Board" means any advisory board created as authorized in this chapter.

61823. "Bulk market milk" means market milk which has not been pasteurized or packaged in bottles, cartons, dispenser cans, or other consumer packages, and is handled or delivered, in bulk, in tanks, cans, or other bulk containers.

61824 "Consumer" means any person that purchases market milk, or any dairy product for consumption.

61825. "Dairy product" or "milk product" includes any product manufactured from milk or any derivative or product of milk.

61826. "Handler" means any person who, as owner, agent, broker, or intermediary, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of market milk in unprocessed or bulk form from a producer, a producer-handler, or another handler for the purpose of manufacture, processing, sale, or other handling, regardless of whether such market milk is produced within or outside this state.

61827. "Market cream" means cream, as defined in this code, and any combination of cream and milk, or any fluid product of milk or cream sold under any trade name whatsoever, which complies with all of the following requirements:

(a) Is not packaged in hermetically sealed containers.

(b) Conforms to the health and sanitary regulations of the place where it is sold or disposed of for human consumption.

61828. "Market milk" has the meaning of that term as defined in Section 32510. Unless the context otherwise indicates, the term "market milk" includes market cream, the components and derivatives of market milk, and dairy products manufactured from market milk or its components and derivatives.

61829. "Market skim milk" means skim milk, as defined in this code, that is derived from market milk and conforms to the health and sanitary regulations of the place where sold or disposed of for human consumption.

61830. "Marketing area" is any area within this state declared to be such in the manner that is prescribed in this chapter.

61831. "Milk" has the meaning of that term as defined in Section 32511.

61831.5 "Milk used for manufacturing purposes" means all milk used for those products defined in Part 3 (commencing with Section 36601) of Division 15.

61832 "Milk plant" means any place, structure, or building where handler receives market milk.

61833. "Packaged market milk" or "packaged market cream" means market milk or market cream respectively, which is packaged in cartons, bottles, dispenser cans, or other consumer packages, for

sale to wholesale customers, or consumers.

61834 "Person" means any individual, firm, corporation, partnership, trust, incorporated or unincorporated association, nonprofit cooperative association, nonprofit corporation, or any other business unit or organization.

61835. "Processing" means receiving, pasteurizing, and packaging market milk. It includes the manufacturing of milk products from market milk

61836. "Producer" means any person that produces market milk from five or more cows in conformity with the applicable health regulations of the place in which it is sold, and whose bulk market milk is received, acquired, or handled by any handler or any nonprofit association of producers. It includes the nonprofit cooperative associations described in Article 3 (commencing with Section 61871) of this chapter in the transactions in which such article provides that the associations are producers.

61837 "Producer-handler" means any person that is both a producer and a handler of market milk For the purposes of this chapter a producer-handler is a producer in any transaction which involves the sale or delivery of bulk market milk which was produced by him to a handler or to any nonprofit cooperative association of producers, and is a handler in any transaction which involves the purchase, acquisition or receipt by him of market milk, the pasteurization or packaging of market milk, or the sale or delivery of packaged market milk to any person.

61838 "Stabilization and marketing plan" means any plan formulated and made effective by the director within the legislative standards provided by this chapter. It includes, among other things, the establishing of prices to be paid by handlers for any or all of the various classes of market milk

61839 "Wholesale customer" means any person that buys milk, cream, or any dairy product from a handler or from a distributor, as defined in Section 61306, for resale to consumers.

Article 3 Nonprofit Cooperative Associations

61871 For the purposes of this chapter, a nonprofit cooperative association organized and existing under Chapter 1 (commencing with Section 54001) of Division 20, that acts for producers, including members and any nonmembers of the association, to whom it accounts on a patronage basis, is a producer in any of the following transactions.

(a) Any transaction which involves its receipt or handling of bulk market milk produced or delivered by such producers.

(b) Any transaction which involves the sale or delivery of bulk market milk to any producer, handler, or manufacturer, or other nonprofit cooperative association of producers

(c) The receipt by it of payment for bulk market milk, packaged market milk, or any other product of market milk produced or

delivered by such producers.

(d) Any transaction in connection with accounting to such producers for the proceeds derived from the sale or marketing of bulk market milk, packaged market milk, or any other product of market milk produced or delivered by such producers.

61872. For the purposes of this chapter, a nonprofit cooperative association organized and existing under Chapter 1 (commencing with Section 54001) of Division 20, that acts for producers, including members and any nonmembers of the association, to whom it accounts on a patronage basis, is a handler in any transaction which involves the receipt by it of market milk from any person other than a producer to whom it accounts on a patronage basis and in any transaction which involves the pasteurization of bulk market milk or the packaging of it in bottles, cartons, dispenser cans, or other consumer packages, or the sale or delivery of packaged market milk.

61873. A nonprofit cooperative association accounts to producers on a patronage basis when it accounts to each producer for his share of the net proceeds derived from the marketing operations of the association, according to quantity and quality of market milk furnished to the association for marketing and according to any marketing pools and quotas established by the association.

Article 4. Administration

61891. The director shall enforce the provisions of this chapter and of any stabilization and marketing plan initiated pursuant to the provisions of this chapter. The director shall adopt those regulations necessary for the proper administration and enforcement of the provisions of this chapter.

61892. The director shall have and may exercise any or all the powers conferred by the Government Code upon the head of a department of the state with respect to hearings and investigations under this chapter.

61893. The director is the instrumentality of this state for the purpose of administering and enforcing the provisions of this chapter and to execute the legislative intent expressed in this chapter, and is hereby vested with the administrative authority described in this chapter. Notwithstanding other laws to the contrary, in the event a milk marketing order under the jurisdiction of the United States Department of Agriculture or other appropriate federal agency, is created by referendum or under the applicable laws and procedures relating thereto, in this state or in any geographical area within this state, the provisions of this chapter or any part thereof which is in conflict with such federal order, or which is unnecessary or is a duplication thereof, shall be suspended in the geographical area covered by and during the existence of such federal order. The director shall take such steps and procedures as are necessary to wind up and conclude the administration and enforcement of the provisions of this chapter, or any part thereof, for the period prior to

the suspension date.

61894. For the purposes of enforcing the provisions of this chapter, the director may investigate any and all transactions, between producers and handlers, between nonprofit cooperative associations and producers, among handlers or between handlers and wholesale customers, between handlers and consumers, or between wholesale customers and consumers. For that purpose, the director shall have access to, and may enter at all reasonable hours, any place where market milk is being stored, bottled, or manufactured, where market milk or any market milk product is being bought, sold, or handled, or where the books, papers, records or documents which relate to such transactions are kept He may inspect and copy such books, papers, records, or documents in any place within the state.

61895 The director may require the registration of producers.

61896 The director may formulate any stabilization and marketing plan as prescribed in this chapter and declare it effective after public hearing and reasonable notice by mail or otherwise to all producers, handlers, and consumer organizations who have filed requests with the director or the Director of Consumer Affairs

61897 A full and accurate record of business or acts performed, or of testimony taken, by the director pursuant to this chapter shall be kept and placed on file in the office of the director.

61898. In addition to the compilation of information which pertains to market milk from the reports required by this chapter, the director shall collect, assemble, compile, and distribute statistical data relative to market milk, other milk and milk products, and such other information as may relate to the dairy industry and the provisions of this chapter

61899. Any order of the director made pursuant to this chapter which substantially affects the rights of any interested party may be reviewed by any court of competent jurisdiction. Any such action shall be commenced within 30 days after the effective date of the order complained of, or within 30 days after the injurious effect complained of becomes reasonably apparent.

61900. The director may confer, enter into agreements, or otherwise arrange with the constituted authorities of this state, other states, or agencies of the United States with respect to plans which relate to the stabilization and distribution of market milk within this state or as between this state and other states or the United States, and may exercise his powers pursuant to this chapter to effectuate and enforce such plans.

61901. All money received by the director pursuant to this chapter shall be paid monthly into the State Treasury to the credit of the Department of Agriculture Fund

61902. If the director determines that it is probable that one or more factors or conditions which affect prices of market milk have changed on a relatively uniform basis throughout two or more marketing areas, he may consolidate the hearings on the matter of price changes for such areas. No price change shall be made as a

result of such a consolidated hearing unless the amount of the change or the resulting prices are uniform throughout the areas which are affected.

61903. Any person who has testified under oath at a public hearing held by the director pursuant to this chapter may, within 10 calendar days following the closing date of the public hearing, file with the director a written posthearing brief in amplification, explanation, or withdrawal of such testimony. One copy of the brief shall be filed with the director at his office in Sacramento. A second copy of the brief shall be filed in the regional milk stabilization office of the director nearest to the location at which the public hearing was held. Any such posthearing brief shall be made available by the director to any interested person for inspection. Except as herein provided, the director, in formulating any stabilization and marketing plan, pursuant to this chapter, following a public hearing, shall not accept or consider any posthearing brief. Nothing in this section shall require the director to prepare, or to make available, any verbatim transcript or other record or summary of the hearing within the 10-calendar-day period referred to in this section; provided, however, that any verbatim transcript or other record or summary of the hearing prepared for or by the director shall be made available to any interested party for inspection at the office of the director in Sacramento and, upon reasonable request, at the regional office of the director nearest the location at which the public hearing was held.

61904. Any provisions of a stabilization and marketing plan formulated, established, or rejected by the director pursuant to this chapter, shall be accompanied by written statements, which shall be made available by the director to any interested person upon request, stating in substance the considerations upon which such plan provisions and minimum prices are based, or upon which such provisions and prices were rejected.

Article 5. Classes of Market Milk

61931. Market milk may be classified for the purposes of this chapter as provided in this article.

61932 Class 1 comprises:

(a) Any market milk, market skim milk, half-and-half, or concentrated milk that is supplied to consumers in the fluid state, with the exception of the following:

(1) Any combination of market milk or market skim milk which is sterilized and packaged in hermetically sealed containers.

(2) Any flavored milk product or market half-and-half which is ultra-pasteurized and packaged in hermetically sealed containers.

(3) Any market half-and-half which is packaged in presterilized containers under aseptic conditions to meet the marketing requirements for such products in states other than this state; provided, however, that nothing in this paragraph shall authorize the

sale within this state of any milk product as a sterilized product unless such product meets the standards and requirements for sterilized products contained in Division 15 (commencing with Section 32501).

(b) Any market milk, market skim milk, or market cream which is used in any other milk product, or products resembling milk products, in which the use of market milk or any components or derivatives of market milk is required by, or pursuant to, the provisions of this code, except any such product defined in Section 61933 as class 2.

(c) Any market milk, market skim milk, market cream, market milk fat, or market milk solids not fat which is used in the standardizing or fortifying of any milk product which is defined in this section as class 1.

(d) Any market milk, market skim milk, or market cream which is used in any product not otherwise classified, which is required by any regulations adopted by the director pursuant to Article 2 (commencing with Section 36631), Chapter 1, Part 3 of Division 15 to be made from market milk or any components or derivatives of market milk.

(e) Any market milk, market skim milk, market cream, market milk fat or market milk solids not fat used in any filled product or imitation milk product, when the product imitated or resembled, is defined in this section as class 1

61933. Class 2 comprises any market milk, market skim milk, or market cream used in the manufacture of market cream, homogenized market cream, sour cream, sour cream dressing, uncreamed, creamed, or partially creamed cottage cheese, and buttermilk. Class 2 also comprises any market milk, market skim milk, or market cream used in the manufacture of any product defined in paragraph (1), (2), or (3) of subdivision (a) of Section 61932 or for which a definition and standard is prescribed in Division 15 (commencing with Section 32501), except any such product which is included in class 1, class 3, or class 4.

61934. Class 3 comprises all market milk, market skim milk, or market cream used in the manufacture of frozen dairy products.

61935. Class 4 comprises all market milk, market skim milk, or market cream, used in the manufacture of butter, cheese other than cottage cheese, dried milk, dried skim milk, nonfat dry milk solids, defatted milk solids, dried buttermilk, and all market milk, market skim milk, or market cream which is supplied to consumers as condensed milk, condensed skim milk, evaporated skim milk, evaporated cream or clotted cream, or evaporated milk, or any product for which no definition and standards are prescribed in Division 15 (commencing with Section 32501), except the products defined in paragraph (2) of subdivision (a) of Section 61932

61936. If the director establishes a temporary definition and standards for any new milk product pursuant to Article 2 (commencing with Section 36631), Chapter 1, Part 3 of Division 15, he shall assign such new product to that class under this article which

includes the most nearly comparable product as determined by the director.

61937. Market milk, market skim milk, or market cream, utilized in bulk by handlers as condensed milk, condensed skim milk, evaporated skim milk, evaporated cream or clotted cream, or evaporated milk, shall be assigned by the director to the classification of ultimate usage of such market milk, market skim milk, or market cream.

Article 6. Marketing Areas

61961. The director shall designate marketing areas which he deems necessary or advisable to effectuate the purposes of this chapter, and in which he finds the conditions affecting the production, handling, and sale of market milk, are reasonably uniform.

61962. The director may establish additional areas, or modify areas previously established, if he deems the establishment or modification of such areas necessary or advisable to effectuate the purposes of this chapter.

61963. If the director finds, after a public hearing in and for each particular marketing area under consideration for consolidation, that conditions of production and handling are reasonably uniform in two or more such marketing areas in which stabilization and marketing plans are in effect, he may consolidate the areas.

Article 7. Formation and Adoption of Stabilization and Marketing Plans

61991. Except as otherwise provided in Section 61992, the director shall, prior to the formulation of a stabilization and marketing plan for market milk for any marketing area, conduct a public hearing in the area for the purpose of determining whether or not the formulation of a stabilization and marketing plan for market milk for such area is desired by producers whose major interest in the market milk business is in the production of market milk for the marketing area and that both:

(a) Represent not less than 65 percent of the total number of producers whose major interest in the market milk business is in the production of market milk for the marketing area.

(b) Produce not less than 65 percent of the total volume of the market milk produced for the marketing area by all such producers.

61992. A hearing need not, however, be held if a petition requesting a stabilization and marketing plan is presented to the director by the producers whose major interest in the market milk business is in the production of market milk for the marketing area, and that both:

(a) Represent not less than 65 percent of the total number of producers whose major interest in the market milk business is in the

production of market milk for the marketing area.

(b) Produce not less than 65 percent of the total volume of the market milk produced for the marketing area by all such producers.

61993. If the director finds that a stabilization and marketing plan is necessary to accomplish the purposes of this chapter, he shall formulate a stabilization and marketing plan for market milk for such area and issue a notice of public hearing upon the plan which is formulated to all producers and handlers of record with the department that may be subject to the provisions of such plan.

61994. The notice of the hearing may be effected by mail, or by publication pursuant to Section 6062 of the Government Code in the area which is designated. It shall specify the time and place of such hearing, which shall not be prior to 15 days from the mailing, or from the final publication of such notice. If no daily newspaper of general circulation is published in the area which is designated, publication pursuant to Section 6066 of the Government Code shall be considered proper publication of notice.

61995. At the hearing, interested parties shall be heard and records kept of the proceedings of such hearing for determination by the director whether the plan proposed will accomplish the purposes of this chapter.

61996. If, after the public hearing, the director determines that the proposed plan will tend to accomplish the purposes of this chapter within the standards which are prescribed in it, he shall issue an order to all producers and handlers of record with the department and subject to the provisions of such plan, declaring such plan in effect within 45 days from the date of such hearing; provided, however, that after a consolidated hearing held pursuant to Section 61902, the director shall declare such plan in effect within 62 days from the date of such hearing. The director shall announce any order under this section at least 10 calendar days prior to the effective date of such plan.

61997. A handler that is subject to the provisions of any stabilization and marketing plan shall not purchase milk from any producer that does not comply with this chapter and such plan.

61998. No stabilization or marketing plan shall contain provisions the purposes of which are to establish limitations upon the production of market milk.

Article 8. Amendment and Termination of Stabilization and Marketing Plans

62031. The director may amend or terminate any stabilization and marketing plan, after notice and public hearing as prescribed in Article 7 (commencing with Section 61991) of this chapter, if he finds that such plan is no longer in conformity with the standards which are prescribed in, or will not tend to effectuate the purposes of, this chapter. Any order under this article amending or terminating any stabilization and marketing plan shall be subject to the provisions of

Section 61996.

62032. A hearing on the amendment or termination of a stabilization and marketing plan may be held upon the motion of the director and shall be held upon receipt of a petition which is signed by producers, or by the board of directors of any nonprofit agricultural cooperative marketing association which is authorized by its members to so petition. Such petition shall represent not less than 55 percent of the total number of all producers and not less than 55 percent of the total production of all producers that are eligible to petition the director for the formulation of such a plan.

Article 9. Establishment of Minimum Prices and Provisions of Stabilization and Marketing Plans

62061. Each stabilization and marketing plan shall contain provisions for prohibiting producers and handlers from engaging in the unlawful trade practices applicable to them that are set forth in Article 10 (commencing with Section 62091) of this chapter.

62062. Each stabilization and marketing plan shall contain provisions whereby the director establishes minimum prices to be paid by handlers to producers for market milk in the various classes. The director shall establish such prices by designating them in the plan, or by adopting methods or formulas in the plan whereby such prices can be determined, or any combination of the foregoing. If the director directly designates prices in the plan, such prices shall be in reasonable and sound economic relationship with the value of milk used for manufacturing purposes If the director adopts methods or formulas in the plan for designation of prices, such methods or formulas shall be reasonably calculated to result in prices which are in a reasonable and sound economic relationship with the value of milk used for manufacturing purposes.

In establishing such prices, the director shall take into consideration any relevant economic factors, including, but not limited to the following:

(a) The reasonableness and economic soundness of market milk prices in relation to the costs of producing and marketing market milk for all purposes, including manufacturing purposes. In determining such costs, the director shall consider the cost of management and a reasonable return on necessary capital investment.

(b) That prices established pursuant to this section shall insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable.

(c) That the prices established by the director for the various classes of market milk bear a reasonable and sound economic relationship to each other.

In establishing such prices, the director shall also take into

consideration all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62077, and 62078

62063 Subject to the provisions of Sections 62075 and 62076, each stabilization and marketing plan shall contain provisions whereby the director shall provide methods for the establishment of minimum prices for market milk received within a marketing area regardless of whether such milk is subsequently sold or distributed within or without such marketing area within the jurisdiction of this state, and may contain such provisions whether or not such market milk is subsequently sold or distributed outside the jurisdiction of this state.

62064. Each stabilization and marketing plan shall provide all of the following:

(a) For the establishment of prices for market milk, whether or not such market milk is subsequently sold or distributed in another marketing area within this state where a stabilization and marketing plan is in effect.

(b) That, if area of usage pricing is in effect, producers shall be paid not less than the minimum prices established for the marketing area wherein such market milk is ultimately sold or distributed.

(c) That, if area of usage pricing is in effect and such market milk is subsequently sold or distributed in any place within the jurisdiction of this state where no stabilization and marketing plan is in effect, such market milk shall be paid by the handler to the producer at not less than the average of prices which are paid by handlers, whose plants are located within such area, to producers for market milk. If, however, no plants are located within such area, the price which shall be paid by the handler to the producer shall not be less than the average of prices which are paid by handlers to producers for market milk, at the plants in the nearest marketing areas adjacent to the area where such market milk is sold or distributed, as established by the stabilization and marketing plans in effect in such adjacent marketing areas

62065 No amendment of this article terminates or invalidates any provision of any stabilization and marketing plan which has been established by the director prior to the effective date of such amendment. Each such plan shall, however, be brought into conformity with such amendment at the earliest practicable date after the effective date of such amendment.

62066. Notwithstanding any other provision of this code to the contrary, the director, in establishing minimum prices to be paid by handlers to producers, for market milk in any marketing area, may establish, as the applicable minimum prices, those prices applicable within the marketing area of ultimate usage of such market milk, those prices applicable within the marketing area where the plant of first receipt of such market milk is located, those prices applicable in the marketing area where the producers place of production is located, or any of the above or any combination of the above.

62067. Each stabilization and marketing plan may contain

provisions which require handlers to report to each producer from whom market milk is secured all of the following:

(a) The volume of market milk received from such producer in pounds of milk.

(b) The milk fat, solids-not-fat, or other component tests of such milk.

(c) The amount of market milk in pounds of milk fat, solids-not-fat or other components paid for in the several classes or pools.

(d) The prices paid for the various classes for each month.

62068. Each stabilization and marketing plan may contain provisions which authorize any handler that purchases market milk under contract from any producer to pool such market milk for producer payment purposes in accordance with such contracts, irrespective of whether such market milk is actually and physically received at the same milk products plant or diverted, in accordance with such plan. Such provisions may do any of the following:

(a) Provide that market milk that is received from producers by milk products plants under the same ownership, may be pooled for purposes of payment to producers.

(b) Provide that if a handler pools market milk, as provided in subdivision (a), the handler shall allocate, among all producers that participate in the class 1 usage, transportation savings which are applicable to market milk, not actually transported between the plant of first receipt and one or more other plants subject to the pool, and used for class 1, and may pay to producers shipping market milk directly to a plant subject to the pool a price for usage of such market milk for class 1, which price represents the average of minimum producer prices payable by that particular plant for such class 1 usage.

62069. The director may establish minimum prices to be paid by handlers to producer-handlers for milk not used by the purchasing handler as class 1 milk. Such provisions may provide that such milk, if used in classes other than class 1 by the purchasing handler may be paid for at the minimum prices established by the director for such other usage but which shall not be less than the prices as found by the director to be paid by manufacturing milk plants in, or adjacent to, the area which use milk for similar purposes. Such prices shall remain in effect only for the period during which, as determined by the director, there is a surplus of producer-handler milk.

62070. Each stabilization and marketing plan may further provide for maximum charges for plant processing and transportation service on the market milk or market milk components which are transported to the area where sold. The stabilization and marketing plan may enumerate the applicable maximum charges, and may establish individual charges for each function enumerated. In establishing any such maximum charges for such transportation services, the director shall base such maximum charges upon the rates which are charged for actual or reasonably similar services by

highway carriers, as the term "highway carriers" is defined in Section 3511 of the Public Utilities Code.

62071. Each stabilization and marketing plan may provide for minimum charges for the various services performed or rendered by a nonprofit cooperative association in respect to class 1 market milk sold or delivered to another handler. Handler services include component testing for payment purposes, quality control, producer payroll, weighing and sampling of bulk market milk. Each stabilization and marketing plan may also include, but not be limited to, minimum charges for the handling of intermittent or irregular deliveries of market milk and plant standby services. The stabilization and marketing plan may enumerate applicable minimum charges and establish individual charges for each service enumerated or, in the alternative, the director may establish one or more minimum charges covering one or more of the separate handler services.

62072. In establishing minimum handler service charges under Section 62071, the director shall take into consideration all relevant factors, including, but not limited to, the following.

(a) The reasonably necessary costs of providing such services, including overhead, as determined by impartial cost surveys, examination of books and records, or both, of such portions of those handlers within the marketing area as are reasonably determined by the director to be sufficiently representative to indicate such costs of all reasonably efficient handlers within such marketing area.

(b) The relationship of the establishment of such minimum charges to the achievement and maintenance of the orderly marketing of market milk and to the effectuation of the purposes of this chapter.

62073. If any contract between a handler and a producer for the purchase of any market milk provides that the charges for the hauling of it shall be paid, in whole or in part, by the producer, and such hauling is done by the handler either directly or through an agent or by any person that contracts with, or is designated by, such handler for such hauling, the director may, and upon the written request of the producer or the written request of any association representing the producer shall, investigate the rates, terms, and conditions which are involved in such hauling in order to determine whether such rates, terms and conditions are in compliance with Section 62070.

If the director determines that such rates, terms, and conditions are not in compliance with Section 62070, he shall determine, within the standards which are prescribed in Section 62070, the maximum charges on account of such hauling that will comply with Section 62070 with respect to such purchase of market milk.

62074. If the director establishes a stabilization and marketing plan for market milk, the director shall establish minimum prices to be paid by handlers for market cream, market skim milk, or milk fat, or market skim milk components of such market milk.

62075. The director shall establish the minimum prices to be paid by handlers to producers for class I usage of market milk upon a milk fat, solids-not-fat or the subcomponents thereof, and fluid carrier basis. In establishing the minimum prices for classes of market milk other than class I, separate prices may be established for any one or more of the following:

(a) The milk fat contained in such milk.

(b) The solids-not-fat or subcomponents thereof contained in such milk.

(c) The fluid contained in such milk.

(d) Any combination of the milk fat, the solids-not-fat or subcomponents thereof, or the fluid contained in such milk.

62076. In establishing prices to be paid by handlers to producers for class 2, class 3 or class 4 market milk, the director may take into consideration any relevant economic factors, including, but not limited to, the following:

(a) The relative market value of the various products yielded from such market milk.

(b) The market price of other milk which may be used for the same purposes that are set forth in such respective classes.

(c) The value of milk used for manufacturing purposes giving consideration to any relevant factors including, but not limited to, product prices, product yields, and manufacturing costs of the lowest class of usage of manufactured products

62077. A handler shall not pay any producer less than the applicable price established for the usage to which the market milk, purchased from him is applied pursuant to accounting procedures established by the director. If the market milk is not applied to any purpose set forth in Article 5 (commencing with Section 61931), then a handler shall not pay any producer less than the price established under the applicable stabilization and marketing plan for class 4 usage.

62078. All handlers who receive market milk within this state shall be obligated to pay minimum producer prices established under this chapter regardless of the area of origin of such milk, whether inside or outside the jurisdiction of the State of California.

Article 10. Unlawful Trade Practices

62091. The unlawful trade practices described in this article apply to every handler whether or not a stabilization and marketing plan is in effect in the area in which the handler is licensed or carries on his business. This article applies to transactions conducted, either directly or indirectly, between producers and handlers.

62092. The payment, allowance, or acceptance of any secret rebate, secret refund, or unearned discount by any person, whether in the form of money or otherwise, is an unlawful trade practice.

62093. The giving of any milk, cream, dairy product, service, or article of any kind, except to a bona fide charity, for the purpose of

securing or retaining the market milk business of any customer is an unlawful trade practice.

62094. The payment, gift, or the offer or promise of any payment or gift, of money or other thing of value, directly or indirectly, or through any agent or other intermediary, to any person with the purpose or design of inducing such person to become or remain the wholesale customer of any handler is an unlawful trade practice.

62095. The payment, gift, or the offer or promise of any payment or gift, of money or other thing of value by any person, directly or indirectly or through any agent or other intermediary, to any handler or producer, or the acceptance by any handler or producer of such payment or gift or thing of value is an unlawful trade practice if it is for any of the following:

(a) For the purpose of inducing a handler or producer to enter into a new contract, or to renew, extend, or modify an existing contract, for the purchase of market milk by a handler from a producer.

(b) As a condition upon which a handler will enter into a new contract, or renew, extend, or modify an existing contract for the purchase of market milk from a producer.

(c) For the purpose of enabling a handler to pay to a producer, or a producer to receive from a handler, less than the minimum class usage prices established by the director to be paid by handlers to producers for market milk.

62095.1. The payment by a handler, either directly or indirectly, of less than the minimum producer price established under the applicable stabilization and marketing plan adopted pursuant to this chapter, is an unlawful trade practice.

62096. Except as otherwise provided in Section 62098, the purchase of any market milk in excess of 200 gallons monthly from any producer unless a written contract, which complies with all of the requirements which are prescribed by this section, has been entered into with such producer is an unlawful trade practice. The contract shall include all of the following:

(a) The amount of market milk which is to be purchased for any period.

(b) Except as otherwise provided in this subdivision, the minimum quantity of such market milk which is to be paid for as class 1, if any is to be purchased for class 1 purposes. The quantity shall be stated in pounds of market milk, pounds of market milk fat, or gallons of market milk, unless the price which is to be paid for such class 1 market milk is established separately for the market milk fat and market skim milk contained in such market milk. If it is, the quantity to be paid for as class 1 shall be stated in pounds of market milk, pounds of market milk fat, or gallons of market milk, or both in pounds of market milk fat and pounds of market skim milk separately.

The minimum quantity of market milk to be paid for as class 1 shall not be less than 70 percent of the total quantity provided in the contract to be purchased at a milk products plant, and not less than

60 percent of the total quantity of market milk fat, or the total quantity of market skim milk components, but not necessarily both, provided in the contract to be purchased at a country plant, as defined by the director in stabilization and market plans

(c) The price to be paid for all market milk received.

(d) The date and method of payment for such market milk, which shall be that payment shall be made for approximately one-half of the market milk delivered in any calendar month not later than the first day of the next following month and the remainder not later than the 15th day of that month.

(e) The charges for transportation if hauled by the handler.

(f) A proviso that no market milk received within the total quantity provided by the contract to be purchased for any period shall be paid for at less than the minimum price for market milk used for class 2

The contract may contain such other provisions as are not in conflict with this chapter. A signed copy of such contract shall be filed by the handler with the director within five days from the date of its execution.

Subdivisions (b), (d), and (f) shall not be applicable if an equalization pool, as provided for under Chapter 3 (commencing with Section 62700) is in effect for the area in which the purchase of the market milk occurs.

62097. The production of market milk in excess of amounts provided to be purchased under contracts executed pursuant to Section 62096 shall be voluntary on the part of the producer and shall not be a condition, oral or written, of execution or renewal of any such contract.

62098. Section 62096 does not apply to the purchase of market milk which is necessary to meet an unanticipated increase in demand or an unanticipated shortage in the supply of a handler if both:

(a) The quantity of market milk so purchased from any one producer does not exceed 1,000 gallons in any one month.

(b) A complete record of all such purchases is kept by the handler and the price paid for such milk by the handler is not less than the price which is established in the applicable stabilization and marketing plan for the usage to which such milk is applied.

62099. The payment by a handler to any producer, including any nonprofit cooperative association acting as a producer, or the receipt by a producer, including any nonprofit cooperative association acting as a producer, from a handler of a lesser price for any market milk, distributed to any person, including any agency of federal, state, or local government, for less than the minimum prices established by the director to be paid by handlers to producers for market milk for the marketing area is an unlawful trade practice.

62100. The failure of any handler to pay for market milk delivered to him at the time and in the manner specified in the contract with the producer is an unlawful trade practice.

62101. The provisions of this article apply regardless of the form in

which market milk is received by the handler, and regardless of the area of origin of such market milk.

Article 11. Sales to the United States

62121. The director may require that each person that submits a bid for the sale to an agency of the United States government of market milk or any milk product which utilizes class 1 market milk shall file with the director, at the same time such bid is submitted, a complete copy of such bid and the following certification:

"The undersigned certifies that in sales by the undersigned to agencies of the United States Government, pursuant to the attached bid, for market milk or milk products utilizing class 1 market milk, as such class 1 market milk is defined in Chapter 2 (commencing with Section 61801), Part 3, Division 21 of the Food and Agricultural Code, the undersigned is complying with all California statutes and regulations pertaining to the establishment and enforcement by the Director of Food and Agriculture of minimum prices to be paid producers for such class 1 market milk."

All bids and certifications filed pursuant to this section shall be confidential and shall not be divulged except when necessary for the proper determination of any court proceeding or hearing before the director.

Article 12. Handlers' Licenses

62141. The licenses provided for in this article are required for each handler. For the purposes of this article, each subsidiary milk plant or branch milk plant, whether under one ownership or not, shall be considered as an individual handler.

62142. For the purposes of this article, "handler" shall include any person defined as a handler under Section 61826 or any person defined as a distributor under Section 61306 that purchases or handles market milk or market cream for processing, manufacture, or sale.

62143. A handler shall not deal in market milk unless such handler first obtains a license from the director for each milk plant owned or operated by the handler. The license provided for in this article is in addition to any license which is required by Division 15 (commencing with Section 32501), or by any law or ordinance of any county or municipality of this state.

Notwithstanding the provisions of Section 61832, "milk plant" as used in this article, means any place, structure, or building where a handler receives market milk and weighs, tests, standardizes, pasteurizes, homogenizes, separates, bottles or packages such milk. "Milk plant" does not include a place, structure, or building which is used for the purpose of receiving, weighing, or testing milk to be diverted or delivered to a licensed milk plant of the handler.

62144. Applications for the license provided by this article shall

be made on forms prescribed by the director, shall be accompanied by an application fee of three dollars ($3), and shall state the name and address of the applicant and such details as to the nature of the applicant's business as the director may require. Such applicant shall further satisfy the director of his or its character, responsibility, and good faith in seeking to carry on the business stated in the application.

62145 Licenses shall be issued for a period of 12 months from the first day of each year or for the remainder of the calendar year from the date of issuance. Application for renewal of a license for the following year by a licensee, together with the application fee of three dollars ($3), shall be made prior to the expiration date of the license held. If it is not so made, the applicant shall pay an additional sum equal to 100 percent of the application fee before such license shall be issued.

62146. The director may refuse to grant or renew any license if he is satisfied that any applicant, or any person connected with the applicant, either directly, or indirectly has violated any of the following:

(a) This chapter or any stabilization and marketing plan or other regulation adopted under this chapter.

(b) The unlawful trade practices provisions set forth in Article 5 (commencing with Section 61371) of Chapter 1 of this part.

(c) Chapter 3 (commencing with Section 62700) or any pooling plan established thereunder.

62147. The director may also refuse to grant or renew any license to a handler if he is satisfied that the handler has failed to pay for any market milk delivered to him at the time and in the manner specified in the contract with the producer.

62148. The proceedings to determine whether or not the director shall refuse to grant or renew a license shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and the director shall have all of the powers granted in such chapter.

62149. The decision may include an order refusing to grant or renew the license applied for, or affixing such other conditional and probationary orders as may be proper for the enforcement of any of the following:

(a) This chapter or any stabilization and marketing plan formulated pursuant to this chapter.

(b) The unlawful trade practices provisions set forth in Article 4 (commencing with Section 61371) of Chapter 1 of this part.

(c) Any regulation duly adopted by the director pursuant to Section 61891.

62150. After any decision in favor of the issuance or renewal of a license which includes any conditional or probationary orders, if the person to whom the license is issued does not comply with any such orders, the director may suspend or revoke the license in accordance with the procedure provided in Sections 62151, 62152, 62153, 62154,

and 62155.

62151. The director may revoke or suspend, as the case may require, any license which is issued pursuant to this chapter, if he is satisfied that any licensee or any person who is connected with the licensee has violated any provision of any of the following:

(a) This chapter or any stabilization and marketing plan which is formulated pursuant to the provisions of this chapter.

(b) Any regulation which is adopted by the director pursuant to Section 61891.

(c) The unlawful trade practices provisions set forth in Article 4 (commencing with Section 61371) of Chapter 1.

(d) Chapter 3 (commencing with Section 62700) or any pooling plan adopted thereunder.

The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and the director shall have all the powers which are granted in such chapter.

62152. The director may also revoke or suspend any license of a handler if he is satisfied that the handler has not paid for any market milk delivered to him at the time and in the manner specified in the contract with the producer.

62153. The decision may include an order revoking or suspending the license held by the licensee, or affixing such other conditional and probationary orders as may be proper for the enforcement of this chapter or any provision of any stabilization and marketing plan formulated pursuant to the provisions of this chapter or of any regulation adopted by the director pursuant to Section 61891.

62154. After any decision, which includes any conditional or probationary orders, if the respondent does not comply with any such orders, the director may suspend or revoke the license in accordance with the procedure which is provided in this article.

62155. Whenever the director is satisfied, either by investigation or after a hearing, that a handler is unable to pay for any market milk purchased from any producer, and is further satisfied that to permit the handler to continue to purchase and receive any market milk from producers would be likely to cause serious and irreparable loss to producer-creditors and other producers, the director may thereupon and forthwith shorten the time for hearing that is provided for in Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and thereupon may issue an order to show cause why the license of such handler should not be forthwith suspended or revoked. The time of notice of the hearing shall not, however, be less than five days. At such hearing the handler that is proceeded against shall be ordered to show cause why the license should not be suspended or revoked, or continued under such conditions and provisions, if any, as the director may consider just and proper and for the protection of the best interests of the producer-creditors and producers from whom the handler has been and is receiving any market milk. Following such hearing, the

decision of the director shall become effective at his discretion.

The hearing, in the case of such emergency, may be called upon written notice which is served personally or by mail on the handler that is involved. It may be held at the nearest office of the director or at such place as may be most convenient in the discretion of the director for the attendance of all of the parties that are involved.

Article 13. Handlers' Bonds

62181. The bonds provided for in this article are required for each handler. For the purposes of this article, each subsidiary milk plant or branch milk plant, whether under one ownership or not, shall be considered as an individual handler.

62182. Every handler before purchasing any market milk from a producer shall execute and deliver to the director a surety bond, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. The minimum amount of the bond shall be based upon the average daily quantity of market milk purchased by the handler during any calendar month during a license year.

The minimum amount of the bond shall be as follows:

(a) One thousand dollars ($1,000) for any handler that purchases an average daily quantity of market milk of less than 100 gallons.

(b) Two thousand dollars ($2,000) for any handler that purchases an average daily quantity of at least 100 gallons but less than 200 gallons.

(c) Three thousand dollars ($3,000) for any handler that purchases an average daily quantity of at least 200 gallons but less than 300 gallons.

(d) Five thousand dollars ($5,000) for any handler that purchases an average daily quantity of 300 gallons or more.

62183. If any handler so increases his purchases of market milk during the license year that such purchases exceed the amount for which the handler is bonded, such handler shall forthwith post such additional bond as may be required to comply with this article.

62184. The bonds required by Sections 62182 and 62183 shall be upon a form approved by the director, and shall be conditioned upon the payment in the manner that is required by this chapter, of all amounts due to producers for market milk purchased by such licensee or applicant during the license year. It shall be to the state in favor of every producer of market milk.

62185. If a handler fails to pay any producer or producers for market milk in the manner that is required by this chapter, the director shall proceed forthwith to ascertain the names and addresses of all the producers that the handler has failed to pay, together with the amounts due and owing to them and each of them by such handler, and shall request all such producers to file a verified statement of their respective claims with the director. The producer need only verify that he is owed an amount by the handler. The

actual amount in such case may be ascertained by the director.

62186. After determining the claims of such producers, the director shall bring an action on the bond on behalf of such producers.

Any producer not satisfied with the amount of such producer's claim as determined by the director, or with the ratio such producer's claim bears to all claims against the bond as determined by the director, may intervene in such an action so that the correct amount of his claim and the ratio it bears to all the claims may be adjudicated.

62187. Upon any action being commenced upon the bond, the director may require the filing of a new bond in such amount as determined by the director as will be sufficient to satisfy claims for payment of producers thereafter supplying market milk to such handler, and immediately upon a recovery in any such action upon such bond, the failure of a handler to have filed a new bond within 10 days after notice from the director constitutes grounds for the revocation or suspension of the license of such handler.

62188. If recovery upon the bond is not sufficient to pay all of the claims as finally determined and adjudged by the court, any such amount recovered shall be divided pro rata among the producer-creditors.

62189. The failure of any handler that purchases market milk from producers to execute and deliver the bond as provided and required in this article is a violation of this chapter. The failure of any such handler to post any additional bond as may be required to comply with any provision of this chapter is also a violation of this chapter.

62190. Payments by a handler to a producer, for the purposes of any action on a handler's bond or bonds for any year or years, shall be credited first to interest and then to principal due, owing, and unpaid. Amounts to be applied to principal shall be applied first to the amount due for the most recent deliveries and then successively, in descending order, to the amounts due to the next most recent deliveries.

Article 14. Administrative Fees

62211. Every handler subject to the provisions of any stabilization and marketing plan, including a producer-handler, shall deduct as an assessment from payments made to producers for market milk, including the handler's own production, the sum of one and six-tenths cents ($0.016) per hundredweight of market milk.

The amount of the assessments so deducted shall be paid to the director on or before the 45th day following the last day of the month during which such market milk was received

Every handler subject to the provisions of any stabilization and marketing plan that purchases or handles market milk from producers, including the handler's own production, if any, shall pay a fee of eight-tenths of one cent ($0.008) per hundredweight of market milk.

The amount of such fee shall be paid to the director on or before the 45th day following the last day of the month in which such market milk was received.

62212. The director may fix the rates of assessments or fees required by Section 62211 at lesser amounts, and may adjust such rates of assessments or fees from time to time, whenever he finds that the cost of administering the provisions of this chapter can be defrayed from revenues derived from such lower rates, provided that the rate of assessments deducted from payments to producers for market milk, including the handler's own production, and the rate of fees paid by handlers shall at all times be in the ratio of two to one.

62213. Any assessment or fee or either of them payable pursuant to any provision of this article is a debt of the person by whom such assessment or fee or either of them is payable and shall be due and payable to the director upon the date set forth in Section 62211. If such person does not pay such assessment or fee or either of them upon the required date, the director may file a complaint against such person in a state court of competent jurisdiction for the collection of such assessment or fee or either of them.

If any such person does not pay to the director the assessments or fees or either of them provided for in this article, on or before the date specified in Section 62211, the director may add to such unpaid assessments or fees or either of them an amount not exceeding 10 percent of such unpaid assessment or fees or either of them to defray the cost of enforcing the collection of such unpaid assessments or fees or either of them.

Article 15. Reports and Statistics

62241. All handlers shall make and file with the director at least once each month such reports as the director may require to enable him to enforce the provisions of this chapter.

62242. Every handler that purchases market milk shall make and keep for one year a correct record which shows in detail all of the following with reference to the handling, sale, or storage of such market milk:

(a) The name and address of the seller.
(b) The date the market milk was received.
(c) The amount of market milk received.
(d) The official tests of the market milk purchased.
(e) The usage of the market milk.
(f) Evidence of payment for the market milk purchased.
(g) Such further records as the director may require.

62243. Any record or report made to the director pursuant to the provisions of this article is confidential and shall not be divulged, except if necessary for the proper determination of any court proceedings or hearing before the director.

Article 16. Testing, Weighing, and Sampling

62271. The director shall supervise the milk fat and milk solids not fat testing and the weighing and sampling of market milk delivered to handlers.

62272. The director may allocate from the funds which are derived pursuant to Article 14 (commencing with Section 62211) of this chapter such sum for any fiscal year, not exceeding ninety-five thousand dollars ($95,000) which shall be used exclusively for the supervision and checking the correctness of the milk fat, milk solids not fat, and bacteriological tests and the weighing and sampling of all market milk delivered to handlers in accordance with the stabilization and marketing plans established pursuant to the provisions of this division.

Article 17. Local and Regional Producer Advisory Boards

62301. Except as otherwise provided in Section 62303, the director may, if he deems such board necessary or advisable, appoint.

(a) A local advisory board for any marketing area established as prescribed in this chapter to assist and advise him in matters which pertain to the production and marketing of market milk or to the operation of a stabilization and marketing plan.

(b) A regional advisory board, if he deems such board necessary or advisable to represent several marketing areas adjacent to each other and wherein production conditions and costs are reasonably uniform.

62302. Except as otherwise provided in Section 62303, the director shall appoint:

(a) A local advisory board, if a majority of the producers individually, or through any nonprofit agricultural cooperative marketing association which is authorized by its members to so petition, request the establishment of such board.

(b) A regional advisory board, if in each marketing area which is involved a majority of producers that supply such marketing areas individually, or through any nonprofit agricultural cooperative marketing association which is authorized by its members to so petition, requests that such a board be established.

62303. The director shall not establish any local or regional advisory board pursuant to this article if he finds that the assessments or fees which are collected pursuant to Article 14 (commencing with Section 62211) of this chapter from the marketing area are insufficient to cover the costs of such local or regional advisory board.

No regional advisory board shall be set up to include any marketing area which on September 7, 1955, was operating under a local advisory board, unless by petition as provided for in this article or through public hearing, producers of such marketing area request that they be represented by a regional advisory board.

62304. If the director receives a qualified petition for a local

advisory board, he may investigate the possibility of establishing a regional advisory board covering the marketing area from which the petition was received and the adjacent marketing areas, by holding one or more public hearings for the purpose of establishing whether or not a majority of producers supplying the marketing areas proposed to be included in such region desire such regional advisory board.

62305. A local advisory board established pursuant to this article shall consist of seven members who shall be producers that supply market milk to the particular marketing area. A regional advisory board may consist of any number of members who are producers that supply market milk to any of the marketing areas in the region, but shall consist of not less than one member from each such marketing area in the region.

62306. The term of office of each member of a regional advisory board or a local advisory board shall be two years.

62307. The director may remove any member from a local or a regional advisory board if he finds, after a hearing, that such member is guilty of nonfeasance or malfeasance in office.

62308. The director may appoint a member to fill any vacancy on a local or a regional advisory board.

62309. Each regional advisory board and each local advisory board may meet in regular session each month, and each member shall be allowed twenty dollars ($20) per diem and mileage at the rate of fifteen cents ($0.15) per mile for attending such regular meetings, and any other meeting or conference which is called or authorized by the director within or outside of the boundaries of this state.

62310. Any regional or local advisory board may, with the previous approval of the director, employ such personnel as may be necessary in the performance of its duties and shall adopt regulations for its conduct. Each such board shall submit a budget of its expenses to the director for his approval.

The funds to be used for the maintenance of each such board shall be paid from the proceeds of assessments and licenses which are paid to the director under the plan of any area which is represented upon verified claims that are presented by the board to the director. A regional or local advisory board shall not incur any expenses except those for per diem and mileage, unless the expenses are approved by the director.

62311. Regional and local advisory boards shall review with the director the methods which are to be used in determining producer costs, and aid the director in the selection of the level of production which is necessary to meet the requirements of Section 62062 with respect to producer price minimums.

62312. For purposes of developing uniformity of administration as between marketing areas in which producer advisory boards have been appointed, the director shall call together representatives of regional and local advisory boards from time to time to advise him as to the relationships in producer costs among the marketing areas,

and may designate such representatives as the statewide committee of producer advisory boards.

62313. It is hereby declared, as a matter of legislative determination, that producers of market milk appointed to the regional advisory boards pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such advisory boards, the particular industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

Article 18. Actions and Penalties

62401. The violation of any provision of this chapter, or of any provision of any stabilization and marketing plan, or of any regulation adopted under this chapter, is a misdemeanor which is punishable by a fine of not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment. The amount of penalty which is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of such violation upon effectuation of the purposes and provisions of this chapter.

62402. Any person that violates any provision of this chapter, any provision of any stabilization and marketing plan, or any regulation adopted under this chapter, is liable civilly in an amount not less than one hundred dollars ($100) and not to exceed one thousand dollars ($1,000) for each and every violation. Such penalty is to be recovered by the director in any court of competent jurisdiction. The amount of penalty which is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of such violation upon effectuation of the purposes and provisions of this chapter. Any sum which is recovered under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

62403. The director may bring an action to enjoin the violation, or the threatened violation, of any provision of this chapter, any provision of any stabilization and marketing plan, or any regulation adopted under this chapter in the superior court in the county in which such violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions, orders, or regulations, although their properties, interests, residences, or places of business may be in several counties and the violations separate and distinct. Any proceeding which is brought pursuant to this section shall be governed in all other respects by the provisions of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil

Procedure.

SEC. 6. Section 62702.1 is added to the Food and Agricultural Code, to read:

62702.1. It is recognized by the Legislature that the provisions for equalization of usages among producers and entry of new producers contained in the Gonsalves Milk Pooling Act, as originally enacted, and the pooling plan adopted thereunder, tended to achieve the purposes of that act; however, the provisions for more rapid equalization and additional new entry would more rapidly and effectively achieve the purposes of this chapter.

It is also recognized that some holders of pool quota and production base initially issued under the Gonsalves Milk Pooling Act have waited for several years for equalization, and that equalized producers have for a number of years not shared in any of the benefits of new quota created by new usage.

It is further recognized that it is necessary to promote and to attempt to assure more rapid equalization of the holders of pool quota issued subsequent to the initial allocation of production bases and pool quota pursuant to this chapter, and to provide for a program for entry and for equalization of new producers.

It is the purpose of the amendments to this chapter to provide a reasonable and equitable mechanism to permit more accelerated equalization, to equalize the holders of pool quota and production base initially issued under the Gonsalves Milk Pooling Act and who are not yet equalized, and to legislatively allocate in a fair and reasonable manner a share of new pool quota created by new usage to existing pool quota holders who are not equalized, to new producers, and to equalized pool quota holders who have not shared in the benefits of the growth of new usage since the original enactment of the Gonsalves Milk Pooling Act and the pooling plan thereunder.

SEC. 7. Section 62705 of the Food and Agricultural Code is amended to read:

62705. After the director, with the advice and assistance of the formulation committee, has formulated the proposed plan, which shall be within 90 days of the effective date of this chapter, he shall hold one or more public hearings in each proposed pooling area to be affected by the proposed plan for the purposes of considering modification of the proposed boundaries and formulating the pooling plan which will best accomplish the purposes of this chapter. Notice of such public hearings shall be given to each producer, including each member of cooperative marketing associations, who ships fluid milk to a distributor and to each distributor who receives fluid milk from producers. The procedures for the giving of notice and the conducting of such hearings shall be the same as those provided in Chapter 2 (commencing with Section 61801) of this part for public hearings on stabilization and marketing plans.

SEC. 8. Section 62707 of the Food and Agriculture Code is amended to read:

62707. The formulation committee shall make recommendations to the director for inclusion in the pooling plan, and the director shall include in the pooling plan, the following:

(a) The establishment of one or more pools throughout the state.

(b) The base period to be used in determining the production and class 1 usage bases of each producer directly affected by the pooling plan. Such base period shall, at the producers option, be his fluid milk production and usage in the pool area during the calendar year 1967 on an average daily basis or his production and usage in the pool area during the last six months of 1966 on an average daily basis.

As to a producer south and east of San Gorgonio Pass, his production base may at his option, be four times his production in the months of December, 1966, and January and February, 1967.

If a producer, during any such base period, had a valid contract with a distributor, or as a member of a cooperative association had an allocation, which provided that the distributor or cooperative association was required to accept a larger amount of fluid milk from such producer than the producer actually produced during such period, on proof satisfactory to the director of such contract or allocation, the producer may, at his option, have the amount specified in the contract or allocation established as his production base.

(c) The establishment of a class 1 usage for each producer, which shall be the amount of his production of fluid milk accounted for as class 1, and any fluid milk sold for use as class 1 to a United States military installation but which was not accounted for as class 1.

(d) The allocation to each producer within any pool of a pool quota, which, initially, shall be 110 percent of that producer's class 1 usage, as determined in subdivision (c) of this section.

(e) The determination of new class 1 usage and the allocation of pool quota based thereon in a manner consistent with effectuating the purposes of this chapter.

All producers who have not reached the equalization point shall share in such allocation of pool quota on the basis of a formula which shall give substantial weight to each producer's production base, but which at the same time shall allocate a larger percentage to hardship cases and low class 1 usage producers.

Such allocations shall be made on the basis of each individual producer, with each cooperative association considered as a single producer. The cooperative associations of producers shall reassign any new quota to their own members subject to the provisions of Section 62710.

Annually, within not more than four months after August 31 of each year, the pool quota shall be adjusted by each component to reflect any such additional pool quota. It is intended that such increase shall generally reflect the increased class 1 usage which developed during the preceding year, adjusted for the director's estimate of class 1 requirements for the succeeding year, allocated in the manner specified in the pool plan. There shall be no downward

adjustment of pool quota below the quota initially established pursuant to this chapter.

(f) The establishment of production bases and pool quotas for new fluid milk producers who wish to enter the pooling plan after the effective date of the plan. The recommendations of the committee shall be reasonably equitable to both such new producers and to participating producers and consistent with effectuating the purposes of this chapter

(g) The transfer of production bases and pool quotas from one fluid milk producer to another under conditions so designed as to prevent abuses in such transfers and to avoid the development of excessive values for such bases and quotas.

(h) Any and all other matters necessary and desirable to effectuate the provisions of this chapter.

The recommendations of the formulation committee and the pooling plan may provide exceptions from the plan's general application for individual cases of hardship.

SEC. 9. Section 62707.1 is added to the Food and Agriculture Code, to read:

62707.1. (a) The director, on July 1, 1978, shall issue new pool quota sufficient to bring all holders of production base and pool quota as of that date (excluding any production base and pool quota issued pursuant to subdivision (f) of Section 62707), to the equalization point both on the fat and the solids-not-fat components.

(b) Subsequent to July 1, 1978, all allocations of new class I usage determined under subdivision (e) of Section 62707, shall be made as follows:

(1) Forty percent to producers whose total production base and pool quota are below the equalization point, to be allocated according to provisions adopted by the director in the applicable pooling plan;

(2) Forty percent to producers whose total production base and pool quota are equal to or above the equalization point, such allocation to each such producer to be in the same ratio to the total allocation under this subdivision as that producer's total holdings of quota bears to the total quota holdings of all equalized producers;

(3) The remaining 20 percent shall be utilized for new producer allocations under subdivision (f) of Section 62707, according to the provisions in the then applicable pooling plan.

The terms "total production and pool quota" and "total quota" shall for the purposes of this subdivision, include allocations of production base and pool quota issued pursuant to subdivision (f) of Section 62707.

SEC. 10. Section 62708 of the Food and Agricultural Code is repealed.

SEC. 11. Section 62708 is added to the Food and Agricultural Code, to read:

62708. "Producer-handler" for purposes of this chapter is any person that is both a producer and a handler of fluid milk or fluid

cream For the purposes of this chapter, a producer-handler is a producer in any transaction which involves the delivery of bulk fluid milk or bulk fluid cream which was produced by him to a handler, or any nonprofit cooperative association of producers and is a handler in any transaction which involves the purchase by him of fluid milk or fluid cream, the pasteurization or packaging of fluid milk or fluid cream, or the sale or delivery of packaged fluid milk or packaged fluid cream to any person.

A producer-handler, including partnerships or corporations with common ownership, where the ownership of the producing entity is substantially proportionate to the ownership of the handling entity, shall have the option, at the time of the adoption of the initial pooling plan under this chapter, to have a production base and pool quota established as a part of the pooling plan provided for in this chapter, or to elect to operate entirely outside of the pool for producer payment purposes This option is available only in such cases where the producer-handler on January 1, 1968, exercised complete and exclusive control over the operation and management of a plant at which he processes milk received from his own milk production facilities, except for purchases in bulk or packaged fluid milk, fluid skim milk or fluid cream which do not exceed an annual average of 50 gallons per day or 5 percent of his total fluid milk sales, whichever is greater, and only in such case as the producer-handler had retail sales for its own account of not less than 66⅔ percent of its total class 1 sales.

Any producer-handler electing to be excluded from the pool may at any later time be admitted to the pool, but with only the production base and pool quota to which he would have originally been entitled or his average daily production and class 1 usage during the 12 months preceding his entry into the pool, whichever is less.

SEC. 12. Section 62708.1 is added to the Food and Agricultural Code, to read:

62708.1. Any producer-handler who qualified and elected an exemption under Section 62708 and continued eligibility for such exemption by complying with the requirements of that section shall be entitled after January 1, 1978, to continue such exemption provided that such producer-handler maintains retail sales for his own account of not less than 50 percent of his total class 1 sales and his purchases do not exceed 25 percent of his total fluid milk sales, except that any purchases exceeding 5 percent of such sales shall be from pool sources.

Any producer-handler qualifying for and electing an exemption under Section 62708, and maintaining such exemption under Section 62708 and this section, may, after January 1, 1978, elect during the 61-day period of August 1 through September 30 of any year to obtain a production base and pool quota under Section 62708 and enter the pool subject to the option provision of Section 62708.5.

SEC. 13. Section 62708.5 of the Food and Agricultural Code is repealed.

SEC. 14. Section 62708.5 is added to the Food and Agricultural Code, to read:

62708.5. A producer-handler for the purposes of this chapter shall also include, as a separate and distinct category of producer-handlers, any producer and any handler who purchases or handles fluid milk or fluid cream produced by such producer if they meet the requirement that all of the ownership of the handler and all of the ownership of the producer is owned by the same person or persons and their ownership in the producer or handler is at least 95 percent identical for each person with their ownership in the handler or producer Such ownership shall not exceed 10 individual persons or owners of equitable interest in a partnership, corporation, or other legally constituted business association.

The ownership required by this section may be through a partnership, corporation or other legally constituted business association so long as the entities are owned by the same person or persons, and there is at least 95-percent identity of ownership for each person with their ownership in the handler or producer. For the purposes of this section a "person" or "persons" includes the spouse, or other persons of lineal consanguinity of the first or second degree or collateral consanguinity to the fourth degree as defined in the Probate Code, and their spouses, and includes an adopted child the same as a natural child and kindred of the half blood equally with those of the whole blood of the owner and ownerships by persons so related shall be considered single ownership by one person. For the purposes of this section, property pledged or hypothecated in any manner to others shall be considered "owned" so long as equitable ownership with management and control remain with the producer-handler.

Ownership as provided in this section shall have existed at the time of the base period selected by the producer under Section 62707 and at all other times thereafter.

Any such producer-distributor shall have the option within 90 days of the enactment of this section at the 1969 Regular Session:

(a) To join and operate wholly within such pool, or

(b) To have its entire original production base and pool quota determined during the base period it selected as a producer pursuant to Section 62707, established as a part of such pooling plan, and, nevertheless elect to operate entirely outside of the pool to the extent of provisions of this section.

Any producer-handler who qualifies under this section and elects to operate outside the pool, to the extent of the authority granted, shall have the right to make deductions as follows from its own class 1 sales, excluding sales to a handler, whether in bulk or packaged, before being required to account to the pool:

(1) If it has not sold production base and pool quota subsequent to February 9, 1977, it may deduct its original quota, and quota purchased prior to January 1, 1978, plus a daily deduction of 150 pounds milk fat and 375 pounds solids not fat.

(2) If it has sold production base and pool quota subsequent to February 9, 1977, it may only deduct its original pool quota, and quota purchased prior to January 1, 1978

(3) The deductions from class 1 sales authorized pursuant to this section may be made irrespective of the fact that the average class 1 usage in the pool for that month may be less than 100 percent of the pool quota in that pool.

Any production subject to this section from the producer-handler selecting this option shall not have the right to participate in the quota pool, irrespective of the fact that the producer-handler did not sell all of the quota as class I, and will participate in either the base pool or the overbase pool depending upon whether the total production base of the producer is sufficient to cover the milk delivered in excess of the class I usage exempted hereunder, otherwise the production in excess of the exempt producer-handler's own class I sales as herein defined shall be accounted for as overbase milk.

The fact that a producer-handler qualifies as to one of its milk production operations under this section does not prevent it from operating on an entirely separate nonqualifying basis (and therefore subject to pooling) at other milk production facilities, and with other nonqualifying persons at such other milk production facilities. A producer-handler can neither buy nor sell pool quota and transfer therewith the option granted under this division but this shall not prevent him from purchasing or selling pool quota or production base as otherwise provided in this chapter.

If at any time ownership as defined in this section ceases, the producer-handler shall no longer be eligible for the options in this section and shall account to the pool as a separate handler and shall be entitled to reentry into producer participation in the pool on the same basis as a producer-handler may under the last paragraph of Section 62708

SEC 15. Section 62712 of the Food and Agricultural Code is amended to read:

62712. (a) The director may require handlers, including cooperative associations acting as handlers, to make reports at such intervals and in such detail as he finds necessary for the operation of the pool. In conjunction with the pools authorized by this chapter, the director may require handlers to make payments into a settlement fund for fluid milk received and the director may provide for the disbursement of moneys from the settlement fund in the course of administering such pools. The director may employ a pool manager to operate each pool and may permit such pool manager to employ such other necessary personnel and incur such expenses incidental to the operation of the pool as the director finds are necessary.

Handlers who have a financial obligation to the pool resulting from the operation of the pooling plan shall pay such obligations to the pool manager each month as requested. All of such moneys shall be

deposited in a bank or banks approved by the director, and shall be paid out by the pool manager to handlers who have pool credits resulting from the operation of the pooling plan. All financial operations of each pool shall be audited by the Department of Agriculture at least once annually. The director may require handlers to make such deductions from amounts due to producers as he finds are necessary to establish a reserve fund to insure prompt payment to producers.

(b) The pool manager shall effectuate the purposes of Section 62711 by designating the percentage of each price class (i.e., classes 1, 2, 3, and class 4) to be paid within each pool settlement classification (i.e., quota pool, production pool, and overproduction pool), and in so doing he shall allocate the highest usage available, first to the quota pool, next to the production pool, and last to the overproduction pool.

(c) All pool quotas initially determined pursuant to Section 62707, except as modified pursuant to Section 62709, shall be recognized and shall not in any way be diminished.

SEC. 16. Section 62717 of the Food and Agricultural Code is amended to read:

62717. If the director finds that producers on a statewide basis have assented in writing to the proposed pooling plan submitted to them for assent, the director shall place the proposed pool plan into effect. The director shall find that producers have assented to the plan if he finds on a statewide basis that:

(a) Not less than 51 percent of the total number of eligible producers in the state shall have voted in the referendum; and

(b) Sixty-five percent or more of the total number of eligible producers who voted in the referendum who produced 51 percent or more of the total amount of fluid milk produced in the state during the calendar month next preceding the month of the commencement of the referendum period by all producers who voted in referendum approve the plan; or

(c) Fifty-one percent or more of the total number of eligible producers who voted in the referendum who produced 65 percent or more of the total amount of fluid milk produced in the state during the calendar month next preceding the month of the commencement of the referendum period by all producers who voted in the refererndum, approve the plan.

If the plan is not approved, the director may resubmit the plan, or submit a new plan, at any time after six months from the date the director announces the pool plan was not approved.

The director may amend the plan, after notice and public hearing has been given in the same manner as is provided in Chapter 2 (commencing with Section 61801) of this part for stabilization and marketing plans, if he finds that the amendment is necessary to effectuate the purposes of this chapter. After the hearing, the director upon his own motion may make nonsubstantive amendments to the plan. The director may make substantive

amendments to the plan only if producers assent to the proposed amendments at a referendum conducted in the same manner and in the same number as provided for the referendum approving the pooling plan.

The director may terminate the plan on a statewide basis after notice and public hearing has been given in the same manner as is provided in Chapter 2 (commencing with Section 61801) of this part for stabilization and marketing plans, if he finds that the plan is no longer in conformity with the standards described in, or will not tend to effectuate the purposes of, this chapter. Such hearing may be held upon the motion of the director, and shall be held upon receipt of a petition signed by producers representing not less than 25 percent of the total number of all producers and not less than 25 percent of the total production of all producers.

The director shall submit the termination of the plan on a statewide basis in a referendum conducted in the same manner as provided for initial approval of such plan if, after notice and public hearing has been given in the same manner as is provided in Chapter 2 (commencing with Section 61801) of this part for stabilization and marketing plans, he finds that a substantial question exists as to whether or not producers desire the plan to continue and shall submit the plan for termination upon receipt of a petition requesting termination signed by producers representing not less than 25 percent of the total number of all producers and not less than 25 percent of the total production of all producers. The plan shall be terminated if termination is favored by the same percentage of producers producing the same amount of fluid milk as required to initiate the plan.

SEC. 17 Section 62719 of the Food and Agricultural Code is amended to read·

62719. The director shall, from nominations submitted by producers, appoint a review board composed of no less than 12 members to advise him in the administration of the pool plan. The director shall appoint three members of the first board for a one-year term, three members for two-year terms, three members for three-year terms, and three members for four-year terms. Thereafter all appointments shall be for a term of four years and no member may be appointed to more than two four-year terms. The board members shall be producers and not more than three may be producer-managers of associations and not more than two shall be producer-handlers. The board members shall give proportionate representation to all areas of the state, with due regard to the relative production and usage of fluid milk in the various areas of the state. Each member of the review board shall be paid not less than twenty-five dollars ($25) or more than thirty-five dollars ($35) per day plus travel expenses, including expenses for lodging and meals, which are incurred in the attendance at board meetings or in conducting the business of the board; all per diem and expenses being subject to approval by the director.

SEC. 18 Section 62722 of the Food and Agricultural Code is repealed.

SEC 19. Section 62722 is added to the Food and Agricultural Code, to read:

62722 Pooling plans shall not apply to the production of goats milk or producer-handlers who produce and sell less than 500 gallons of fluid milk used for class I purposes per day unless they specifically request entry into the pool at the time of the adoption of the initial pooling plan for that area. Producers of certified milk or guaranteed raw milk shall have the option, at the time of the adoption of the initial pooling plan under this chapter, to be subject to such plan, and accordingly to have a production base and pool quota established for such producer, or to be excluded from such plan.

(a) Any such producer of less than 500 gallons of fluid milk per day, or any such producer of certified milk, or any such producer of guaranteed raw milk, electing to be excluded from such plan, may at any later time be admitted to the pool, but with only the production base and pool quota to which he would have originally been entitled or his existing production and average daily class I usage during the 12 months preceding his entry into the pool, whichever is less.

(b) Any producer claiming exemptions from the provision of any pooling plan by reason of the provisions of Section 62708, 62708.1, or this section, who loses his exemption by failure to meet the requirements for exemptions set forth in those sections shall automatically be deemed to have applied for and become a part of a producer pool on September 1st following any year ended August 31st during which the director determines he is no longer entitled to exemption, and his admittance into such a pool shall be on the basis of the production base and pool quota calculations as set forth in those sections.

SEC. 20 Section 62723 of the Food and Agricultural Code is amended to read:

62723. Unless otherwise defined in this chapter, the definitions contained in Chapter 2 (commencing with Section 61801) of this part govern the construction of this chapter.

For the purposes of this chapter, the following definitions shall apply:

(a) The terms "distributor" and "processor" shall have the same definition as the term "handler" contained in Section 61826 of this code.

(b) "Equalization point" shall mean that point at which pool quota held is equal to 95 percent of production base held.

(c) "Fluid cream" shall have the same definition as the term "market cream" contained in Section 61827 of this code.

(d) "Fluid milk" shall have the same definition as the term "market milk" contained in Section 61828 of this code.

(e) "Fluid skim milk" shall have the same definition as the term "market skim milk" contained in Section 61829 of this code.

SEC 21 Section 62727 is added to the Food and Agricultural Code, to read:

62727 It is the intent of the Legislature that the power conferred in this chapter shall be liberally construed. The provisions of this chapter or subsequent amendment are severable If any section, subdivision, paragraph, sentence, clause, or phrase of this chapter should be declared or held unconstitutional or invalid for any reason, such unconstitutionality or invalidity shall not affect the validity of any other provision of this chapter. The Legislature hereby declares that it would have enacted each other such section, subdivision, paragraph, sentence, clause, or phrase of this chapter irrespective of the fact that one or more sections, subdivisions, paragraphs, sentences, clauses, or phrases has been declared unconstitutional or invalid. Provided further that any such finding of invalidity or unconstitutionality shall not invalidate, affect or impair pool quotas and production bases heretofore issued under the Gonsalves Milk Pooling Act or pooling plan promulgated thereunder.

SEC. 22. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes

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CHAPTER 1193

An act to amend Sections 81005, 84200, 84205, 84207, 87201, 87202, and 87205 of, to amend and renumber Sections 84200.5, 84201, and 84202 of, to add Sections 81005.1, 81005.2, and 84201 to, and to repeal Sections 84203 and 84204 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 81005 of the Government Code is amended to read:

81005. Reports and statements required by Chapter 4 shall be filed as follows:

(a) Reports and statements of statewide elected officers, Supreme Court justices, candidates for statewide elective office, committees supporting such candidates, state central committees of political parties, and committees supporting or opposing statewide measures—one original and one copy with the Secretary of State, two

copies with the Registrar-Recorder of Los Angeles County and two copies with the Clerk of the City and County of San Francisco;

(b) Reports and statements of candidates for and persons holding the office of court of appeal justice, superior court judge, Member of the State Legislature, and member of the Board of Equalization, and of committees supporting such candidates—one original and one copy with the Secretary of State, and two copies with the clerk of the largest county by population which in whole or in part is included in the election district which the officeholder represents or in which the candidate or any of the candidates seek nomination or election, and two copies with the clerk of the county in which the candidate or officeholder resides, or in which the committee is domiciled, provided that a committee not domiciled in California shall file two copies with the Registrar-Recorder of Los Angeles County instead of its county of domicile. For the purposes of this section, the domicile of a committee is the address of the committee listed on the campaign statement. No more than two copies of each such statement need be filed with the clerk of any one county

(c) Reports and statements of candidates for and persons holding any elective office not mentioned above which is voted upon in more than one county, of committees supporting such candidates and committees supporting or opposing measures to be voted upon in more than one county but not statewide—one original and one copy with the clerk of the county having the largest population, and two copies with the clerk of the county in which the candidate or officeholder resides, or in which the committee is domiciled, provided that a committee not domiciled in California shall file two copies with the Registrar-Recorder of Los Angeles County instead of its county of domicile. For the purposes of this section, the domicile of a committee is the address of the committee listed on the campaign statement. No more than two copies of each such statement need be filed with the clerk of any one county.

(d) Reports and statements of candidates for and persons holding any elective office not mentioned above which is voted upon wholly within one city, of committees supporting such candidates and committees supporting or opposing measures to be voted upon wholly within one city—one original and one copy with the city clerk.

(e) Reports and statements of candidates for and persons holding any elective office not mentioned above, of committees supporting such candidates and committees supporting or opposing measures to be voted upon in not more than one county—one original and one copy with the county clerk.

(f) Reports and statements of the county central committees of political parties—one original and one copy with the Secretary of State, and two copies with the county clerk.

SEC. 2. Section 81005.1 is added to the Government Code, to read:

81005.1. Reports and statements required by Chapter 6 shall be

filed as follows: one original and two copies with the Secretary of State who shall send one copy to the Los Angeles office or any other office in Los Angeles designated by the Secretary of State.

SEC. 3. Section 81005.2 is added to the Government Code, to read.

81005 2. Statements of economic interests required by Chapter 7 shall be filed as follows:

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco The commission shall be the filing officer

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco The commission shall be the filing officer

(c) Members of the State Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the largest county by population which in whole or in part is included in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each such statement need be filed with the clerk of any one county The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the largest county by population which in whole or in part is included in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each such statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Candidate for and persons holding the office of district attorney and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(f) Candidates for and persons holding the office of city councilman and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the California Coastal Commission and

members of the six regional coastal commissions—one original with the agency who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(h) Members of the Fair Political Practices Commission—one original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall be the filing officer.

(i) Judges of courts of record—one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(j) Persons not mentioned above—one original with the agency. If the report or statement is filed by the head of an agency, a member of a board or commission not under a department of state government, or a member of a board or commission not under the jurisdiction of a local legislative body, the agency shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer.

SEC. 4. Section 84200 of the Government Code is amended to read:

84200. Each candidate and each committee supporting or opposing a candidate or candidates or supporting or opposing a ballot measure or ballot measures shall file campaign statements not later than 40 days prior to the election, not later than 12 days prior to the election, and not later than 65 days after the election. This section shall not apply to elections held on the first Tuesday after the first Monday in June or November in even-numbered years.

SEC. 5. Section 84201 is added to the Government Code, to read:

84201. Each candidate and each committee supporting or opposing a candidate or candidates or supporting or opposing a ballot measure or ballot measures at an election held on the first Tuesday after the first Monday in June in even-numbered years shall file campaign statements not later than April 30, not later than 12 days prior to the election, and not later than July 31. The closing dates for such statements shall be April 23, 15 days prior to the election, and June 30, respectively.

Each candidate and each committee supporting or opposing a candidate or candidates or supporting or opposing a ballot measure or ballot measures at an election held on the first Tuesday after the first Monday in November in even-numbered years shall file campaign statements not later than September 30, not later than 12 days prior to the election, and not later than January 31. The closing dates for such statements shall be September 23, 15 days prior to the election, and December 31, respectively.

SEC. 6. Section 84200.5 of the Government Code is amended and renumbered to read:

84202. Notwithstanding the provisions of Section 84201, a candidate for county central committee shall file a campaign statement not later than July 31 following the election and shall not be required to file any additional campaign statement, unless he has

received contributions for that election in which case he shall observe the requirements of Section 84201. The closing date for such a statement shall be June 30.

This section is not applicable to a committee supporting or opposing one or more candidates for county central committee, and each such committee shall observe the requirements of Section 84201.

SEC. 7. Section 84201 of the Government Code is amended and renumbered to read:

84203. Notwithstanding the provisions of Sections 84200 and 84201, when a special, general or runoff election is held less than sixty days following the primary election, campaign statements shall be filed not later than 40 days prior to the primary, not later than 12 days prior to the primary, not later than 12 days prior to the special, general or runoff election, and not later than sixty-five days after the special, general or runoff election.

SEC. 8. Section 84202 of the Government Code is amended and renumbered to read:

84204. Committees supporting or opposing the qualification of a measure and proponents of a state measure shall file campaign statements not later than 35 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever date is earlier. The closing date for such a statement shall be 28 days after the deadline for filing petitions or the date of notification that the measure has either qualified or failed to qualify, whichever date is earlier. No committee shall be required to file semiannual statements pursuant to Section 84206 by reason of its support or opposition to qualification of a measure for the ballot.

SEC. 9. Section 84203 of the Government Code is repealed.

SEC. 10. Section 84204 of the Government Code is repealed.

SEC. 11. Section 84205 of the Government Code is amended to read:

84205. The closing date for each campaign statement filed under Sections 84200 and 84203 is three days prior to the filing deadline, except that when the filing deadline is sixty-five days after an election, the closing date is seven days prior to the filing deadline. Any campaign statement required by Section 84204, and any campaign statement required to be filed after an election by Sections 84200, 84201, 84203, and 84207 may be filed prior to the closing date if all liabilities of the filer have been paid and no additional contributions or expenditures are anticipated.

SEC. 11.5. Section 84207 of the Government Code is amended to read·

84207. Notwithstanding the provisions of Section 84201, a candidate for reelection for judicial office whose name does not appear on the ballot by reason of Section 25304 of the Elections Code shall file his campaign statement not later than January 31, with a closing date of December 31, and shall not be required to file any

additional campaign statements. His campaign statements shall include contributions and expenditures in connection with his candidacy at both the primary and general elections. If such a candidate's name does not appear on the ballot at the primary election but does appear on the ballot at the general election, he shall file the campaign statements required by Section 84201 before and after the general election, and such campaign statements shall include contributions and expenditures in connection with his candidacy at both the primary and general elections. This section is not applicable to a committee supporting one or more candidates for judicial office, and each such committee shall observe the requirements of Section 84201.

SEC. 12. Section 87201 of the Government Code is amended to read:

87201. Every candidate for an office specified in Section 87200 shall file with his declaration of candidacy a statement disclosing his investments and his interests in real property.

Such statement shall not be required if the candidate has filed, within 60 days prior to the filing of his declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

SEC. 13 Section 87202 of the Government Code is amended to read:

87202. (a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming such office, file a statement disclosing his investments and his interests in real property. Every person who is appointed to an office specified in Section 87200 shall file such a statement not less than 10 days prior to assuming office.

Such statement shall not be required if the person has filed, within 60 days prior to his assuming office, a statement for the same jurisdiction pursuant to Section 87201 or 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to Section 87203 instead of this section except that the period covered for such a statement shall begin on the date the person filed his declaration of candidacy. This subdivision shall become effective on January 1, 1978.

SEC. 14. Section 87205 of the Government Code is amended to read:

87205. A person who completes a term of an office specified in Section 87200 and on the same day begins a term of the same office or another such office of the same jurisdiction is not deemed to assume office or leave office.

SEC. 15. The Legislature finds and declares that the changes made in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000), Government Code) by this act are in furtherance of the purposes of the Political Reform Act.

SEC. 16. Notwithstanding Section 2231 of the Revenue and

Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1194

An act to add Article 5 (commencing with Section 13280) to Chapter 4 of Division 7 of the Water Code, and to amend Section 11 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of 1962, First Extraordinary Session), relating to water.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Article 5 (commencing with Section 13280) is added to Chapter 4 of Division 7 of the Water Code, to read:

Article 5. Individual Disposal Systems

13280. A determination that discharge of waste from existing or new individual disposal systems or from community collection and disposal systems which utilize subsurface disposal should not be permitted shall be supported by substantial evidence in the record that discharge of waste from such disposal systems will result in violation of water quality objectives, will impair present or future beneficial uses of water, will cause pollution, nuisance, or contamination, or will unreasonably degrade the quality of any waters of the state.

13281. In making such determination, the regional board shall consider all relevant evidence related to such discharge, including, but not limited to, those factors set forth in Section 13241, possible adverse impacts if such discharge is permitted, failure rates of any existing individual disposal systems whether due to inadequate design, construction or maintenance or unsuitable hydrogeologic conditions, evidence of any existing, prior, or potential contamination, existing and planned land use, dwelling density, historical population growth, and such other criteria as may be established pursuant to guidelines, regulations, or policies adopted by the state board.

13282. Where it appears that adequate protection of water quality, protection of beneficial uses of water, and prevention of nuisance, pollution, and contamination can be attained by appropriate design,

location, sizing, spacing, construction, and maintenance of individual disposal systems in lieu of elimination of discharges from such systems, and where an authorized public agency provides satisfactory assurance to the regional board that such systems will be appropriately designed, located, sized, spaced, constructed, and maintained, such discharges shall be permitted so long as such systems are adequately designed, located, sized, spaced, constructed, and maintained.

13283. In reviewing any determination that discharge of waste from existing or new individual disposal systems should not be permitted, the state board shall include a preliminary review of possible alternatives necessary to achieve protection of water quality and present and future beneficial uses of water, and prevention of nuisance, pollution, and contamination, including, but not limited to, community collection and waste disposal systems which utilize subsurface disposal, and possible combinations of individual disposal systems, community collection and disposal systems which utilize subsurface disposal, and conventional treatment systems.

13284. The state board may adopt guidelines, regulations, or policies necessary to implement the provisions of this article.

SEC. 2. Section 11 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 11. The Crestline-Lake Arrowhead Water Agency incorporated as herein provided, shall have all of the following powers:

(1) To have perpetual succession.

(2) To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(3) To adopt a seal and alter it at pleasure.

(4) To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the Crestline-Lake Arrowhead Water Agency.

(5) To acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights and privileges and construct, maintain and operate conduits, pipelines, reservoirs, works, machinery and other property useful or necessary to store, convey, supply or otherwise make use of water for a waterworks plant or system for the benefit of the agency, and to complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by it as herein authorized.

(6) To construct, maintain, improve and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the Crestline-Lake Arrowhead Water Agency, and to provide by ordinance regulations binding upon all persons to govern the use of such facilities including regulations imposing reasonable charges for the use thereof. Violation of any

such regulation shall be a misdemeanor.

(7) To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell water under the control of the agency to cities, and to other public corporations and public agencies within the agency, and to the inhabitants of such cities and of other territory within the agency, and to persons, corporations, and other private agencies, within the agency for use within said agency without any preference and it may whenever the board shall find that there is a surplus of water above that which may be required by such consumers within said agency, sell or otherwise dispose of such surplus water to any persons, firms, public or private corporations or public agencies or other consumers

(8) To supply and deliver agency water to property not subject to agency taxes at special rates, terms and conditions as are determined by the board for such service.

(9) To exercise the right of eminent domain to take any property necessary to supply the agency or any portion thereof with water. The agency in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be removed to a new location. No action in eminent domain to acquire property outside the boundaries of the agency shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution

(10) To issue bonds, borrow money and incur indebtedness as authorized by law or in this act provided; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof; also to issue warrants to pay the formation expenses of the agency, which warrants may bear interest at a rate not exceeding 6 percent per anum from the date of issue until funds are available to pay the warrants, and which formation expenses may include fees of attorneys and others employed to conduct the formation proceedings.

(11) To issue negotiable promissory notes bearing interest at a rate not exceeding 7 percent per annum; provided, however, that said notes shall be payable from revenues and taxes legally derived pursuant to any maximum property tax rate procedure; and provided further, that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of such notes outstanding at any one time may be at least equal to seventy-five thousand dollars ($75,000) but shall not otherwise exceed the lesser of either five hundred thousand dollars ($500,000) or 2 percent of the assessed valuation of the taxable property in the Crestline-Lake Arrowhead Water Agency or, if said assessed

valuation is not obtainable, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate.

(12) To cause taxes to be levied, in the manner hereinafter provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor.

(13) To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit use of such water during such periods for specific uses which the agency may from time to time find to be nonessential.

(14) To prescribe and define by ordinance the restrictions, prohibitions and exclusions referred to in subdivision (13) hereof. Every ordinance relating to the matters referred to in this subdivision shall be in full force and effect forthwith upon adoption, but shall be published pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation, printed, published and circulated in the agency within 10 days after adoption, or if there be no such newspaper it shall be posted within said time in three public places within the agency.

(15) To make contracts, to employ labor, and do all acts necessary for the full exercise of the agency's powers.

(16) To provide by ordinance of its board of directors for the pensioning of officers or employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the agency, the wages of officers or employees, voluntary contributions, gifts, donations or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such officers or employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of officers or employees before such pensions shall be available to them.

(17) To acquire, control, distribute, store, spread, sink, treat, purify, reclaim, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses and protection of the agency or its inhabitants or the owners of rights to water therein.

(18) To join with one or more public agencies, private corporations or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions and operations. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and

apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. The term "public agency," as used in this subdivision, shall be deemed to mean and include the United States of America or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, the Metropolitan Water District of Southern California, or other public district of this state. The term "private corporation," as used in this subdivision, shall be deemed to mean and include any private corporation organized under the laws of the United States of America or of this or any other state thereof Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States of America or any department or agency thereof, or with any private corporation organized under the laws of the United States of America, by which the Crestline-Lake Arrowhead Water Agency or improvement district thereof incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualified electors of the agency or improvement district voting at a special election to be held for that purpose, such election to be called and held, so far as practicable, in the same manner as bond elections for the agency or improvement district.

(19) To commence, maintain, intervene in, and compromise, in the name of the agency, any action or proceeding involving or affecting the ownership or use of water or water rights within the agency, used or useful for any purpose of the district, or a common benefit to lands within the agency or its inhabitants.

(20) Distribute water to persons in exchange for ceasing or reducing ground water extractions and to fix the terms and conditions of any contract under which producers may agree voluntarily to use replenishment water from a nontributary source in lieu of ground water, and to such end a district may become a party to such contract and pay from district funds such portion of the cost of such replenishment waters as will encourage the purchase and use of such water in lieu of pumping so long as the persons or property within the district are directly or indirectly benefited by the resulting replenishment.

(21) To issue bonds under Section 18 of this act for the purpose of providing money required to be paid to the agency organized under the Metropolitan Water District Act by the board of directors of the

agency as all or part of the terms and conditions upon which the corporate area of the Crestline-Lake Arrowhead Water Agency may be annexed to and become a part of said metropolitan water district. The amount of said bonds may include expenses of all proceedings for the authorization, issuance and sale of the bonds.

(22) To issue revenue bonds for any purpose for which such bonds could be issued under the provisions of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) or any other law which by its terms is applicable to districts formed under this act.

(23) To use the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), and the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) for the construction of any facilities authorized to be constructed under the provisions of this act. The powers and duties conferred by such improvement acts on the various boards, officers and agents of cities shall be exercised by the respective boards, officers and agents of the Crestline-Lake Arrowhead Water Agency. In the application of such improvement acts to proceedings instituted by the Crestline-Lake Arrowhead Water Agency, the terms used in such improvement acts shall have the following meanings:

(a) "City council" and "council" shall mean the Board of Directors of the Crestline-Lake Arrowhead Water Agency.

(b) "Municipality" and "city" shall mean the Crestline-Lake Arrowhead Water Agency.

(c) "Clerk" and "city clerk" shall mean the secretary of the Crestline-Lake Arrowhead Water Agency.

(d) "Superintendent of streets," "street superintendent" and "city engineer" shall mean the chief engineer of the Crestline-Lake Arrowhead Water Agency.

(e) "Tax collector" shall mean the county tax collector.

(f) "Treasurer" and "city treasurer" shall mean the treasurer of the Crestline-Lake Arrowhead Water Agency.

(g) "Mayor" shall mean the President of the Board of Directors of the Crestline-Lake Arrowhead Water Agency.

(h) "Right-of-way" shall mean any parcel of land in, on, under or through which a right-of-way or easement has been granted to the agency for the purpose of constructing and maintaining any works or improvements of the Crestline-Lake Arrowhead Water Agency.

Any certificates or documents required by such improvement acts to be filed or recorded in the office of the superintendent of streets or street superintendent shall be filed or recorded in the office of the Secretary of the Crestline-Lake Arrowhead Water Agency.

(24) The agency shall have the power to construct, operate and maintain works to develop hydroelectric energy, for use by the agency in the operation of its works or as a means of assisting in

financing the construction, operation and maintenance of its projects for the control, conservation, diversion and transmission of water and to enter into contracts for the sale of such energy for a term not to exceed 50 years Such energy may be marketed only at the bus bar and at wholesale to any public agency or private entity, or both, or the federal or state government.

(25) In connection with the construction and operation of the works of the agency, the agency shall have the power to contract for the sale of the right to use falling water for electric energy purposes with any public agency or private entity engaged in the retail distribution of electric energy, for a term not to exceed 50 years.

CHAPTER 1195

An act to amend Section 31468 of the Government Code, and to amend Sections 40413, 40488, 40500, 40506, 40510, 42311, 42364, and 44531 of, and to repeal Sections 40487 and 40503 of, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) "District" means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) "District" also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) "District" also includes any organization or association authorized by Chapter 26, Statutes of 1935, as amended by Chapter 30, Statutes of 1941, or by Section 50024 of this code, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of such organization or association into the retirement system managed by the board.

(d) "District" also includes, but is not limited to, any sanitary district formed under Part 1 (commencing at Section 6400), Division 6 of the Health and Safety Code

(e) "District" also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the Constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) "District" also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905 of the Government Code

(g) "District" also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of such hospital, and who under such agreement had the right and did elect to continue membership in the county's retirement system established under this chapter.

(h) "District" also includes the South Coast Air Quality Management District as created pursuant to Chapter 5.5 (commencing with Section 40400), Part 3, Division 26 of the Health and Safety Code. Employees of the district, except those electing by January 1, 1978, not to remain members, shall be included within the retirement association established in accordance with this chapter for the employees of the County of Los Angeles and the districts located therein. Employees who have been members of the Los Angeles County Employees' Retirement Association shall remain members, and their continuity of membership shall not be impaired by their employment by the district. All employees of the district who are employed after January 1, 1979, shall become members of the San Bernardino County Employees' Retirement Association on the first day of the month following the date of employment by the district Employees of the district, who elect not to remain members of the Los Angeles County Employees' Retirement Association, shall elect by January 1, 1979, to become a member of one of the two retirement systems established pursuant to this chapter for the employees of the County of San Bernardino or the County of Orange, subject to approval of the retirement board of the association to be joined. The district shall make proper application to the respective counties to join and maintain such membership Employees of the district shall be entitled to the benefits conferred by, and subject to the provisions of, Article 9 (commencing with Section 31700) and Article 15 (commencing with Section 31830), with respect to their membership in these retirement associations.

SEC. 2. Section 40413 of the Health and Safety Code is amended to read

40413. The board of supervisors of a county that is only included in part within the south coast district may by resolution elect to have that area of the county not included within the South Coast Air Basin included in the south coast district, or the board of supervisors may contract with the south coast district to perform air pollution control functions in that area of the county not within the South Coast Air Basin, and the district may perform such functions for the county.

SEC. 3 Section 40487 of the Health and Safety Code is repealed.

SEC. 4. Section 40488 of the Health and Safety Code is amended to read·

40488. (a) In fixing compensation to be paid to the south coast district employees, the south coast district board, in each instance, shall for the 1977–78 fiscal year provide a salary or wage and fringe benefits at least equal to the salary or wage and fringe benefits paid to the employees of the County of Los Angeles for the same quality of service rendered or for positions of equal responsibilities and duties.

(b) Thereafter, in fixing future compensation to be paid to employees in its civil service system or merit system, the south coast district board shall, in each instance, provide a salary or wage and fringe benefits at least equal to the prevailing salary or wage and fringe benefits for the same quality of service rendered by private persons under similar employment in case such prevailing salary or wage can be ascertained.

SEC. 5. Section 40500 of the Health and Safety Code is amended to read:

40500 In accordance with the purposes of this chapter as set forth in Sections 40401 and 40402, the south coast district board shall establish rules and regulations for the granting of variances by the hearing board from Section 41701 or from such standards for the discharge of air contaminants as the south coast district may adopt.

The rules and regulations shall include a schedule of fees, which shall be based upon the number of sources the variances is applicable to and the extent the amount of emissions from the sources exceeds the required standards, for the filing of applications for variances. All applicants shall pay the fees required by such rules and regulations, including, notwithstanding the provisions of Section 6103 of the Government Code, an applicant that is a publicly owned public utility. A variance may be granted by the hearing board after a public hearing and upon filing, with appropriate fees, of a variance petition with the hearing board.

SEC. 6. Section 40503 of the Health and Safety Code is repealed.

SEC. 7. Section 40506 of the Health and Safety Code is amended to read:

40506. In accordance with the purposes of this chapter as set forth in Sections 40401 and 40402, the south coast district board shall establish rules and regulations for the issuance by the south coast district board of permits for authority to construct or operate any article, machine, equipment, or other contrivance for which a permit may be required by the south coast district board.

The rules and regulations shall include a schedule of fees for the filing of applications for permits and for the modification, revocation, extension, or annual renewal of permits. All applicants, including, notwithstanding the provisions of Section 6103 of the Government Code, an applicant that is a publicly owned public utility, shall pay the fees required by such rules and regulations.

SEC. 8. Section 40510 of the Health and Safety Code is amended to read:

40510. The south coast district board may adopt a fee schedule for

the issuance of variances and permits to cover the cost of planning, inspection, and monitoring related thereto. Every person applying for a variance or a permit, including, notwithstanding the provisions of Section 6103 of the Government Code, a person that is a publicly owned public utility, shall pay the fees required by the schedule.

The fees may be varied according to the quantity of emissions and the effect of such emissions on the ambient air quality within the south coast district.

SEC. 9. Section 42311 of the Health and Safety Code is amended to read:

42311. (a) A district board may adopt, by regulation, a schedule of fees not exceeding the estimated cost of issuing permits and inspection, including but not limited to source testing, pertaining to such issuance to be paid for the issuance of permits. Every person applying for a permit, including notwithstanding the provisions of Section 6103 of the Government Code, a person that is a publicly owned public utility, shall pay the fee required by the schedule.

(b) Except as provided in Section 42313, all such fees shall be paid to the district treasurer to the credit of the district.

SEC. 10. Section 42364 of the Health and Safety Code is amended to read:

42364. (a) The district board may adopt, by regulation, a schedule of fees which will yield a sum not exceeding the estimated cost of the administration of this article and for the filing of applications for variances or to revoke or modify variances. All applicants shall pay the fees required by the schedule, including, notwithstanding the provisions of Section 6103 of the Government Code, an applicant that is a publicly owned public utility.

(b) All such fees shall be paid to the district treasurer to the credit of the district.

SEC. 11. Section 44531 of the Health and Safety Code is amended to read:

44531. No project, or portion thereof, shall be eligible for financing under this division for which, at the time an application is submitted to the authority, financing has been otherwise obtained.

No project shall be eligible for financing under this division unless the appropriate state control agency certifies that there is reasonable assurance that:

(a) The project is necessary to further compliance with applicable federal, state, and local standards and requirements.

(b) The project is consistent with an approved regional, basin, or state plan for environmental protection. The project shall be deemed consistent with such a plan for the purposes of this section if it provides for the direct or indirect mitigation of emissions of one or more participating parties and if completion of the project will result in a net reduction in overall emissions and will cause further progress toward attainment of air or water quality standards.

(c) The project, in the event that such project is concerned with water pollution control, cannot reasonably be financed by being

included, or otherwise participating, in a water pollution control project directly funded by a public agency

For purposes of this section the "appropriate state control agency" shall be the State Water Resources Control Board for projects affecting water quality, the State Air Resources Board for projects affecting air quality, or the Resources Agency for a project affecting other than water quality or air quality. The authority shall reimburse the control agencies for their reasonable and necessary expenses in making the certification.

SEC. 12. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The South Coast Air Quality Management District assumed the operational responsibilities of the Southern California Air Pollution Control District on February 1, 1977. The provisions of this act are necessary to the operation of the south coast district and, therefore, must take effect immediately.

CHAPTER 1196

An act to add Article 9 (commencing with Section 19230) to Chapter 6 of Part 2 of Division 5 of Title 2 of, and to repeal Chapter 11 (commencing with Section 3550) of Division 4 of Title 1 of, the Government Code, relating to handicapped persons.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 11 (commencing with Section 3550) of Division 4 of Title 1 of the Government Code is repealed.

SEC. 2. Article 9 (commencing with Section 19230) is added to Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 9. Hiring of Disabled Persons

19230 The Legislature hereby declares that:

(a) It is the policy of this state to encourage and enable disabled persons to participate fully in the social and economic life of the state

and to engage in remunerative employment.

(b) It is the policy of this state that qualified disabled persons shall be employed in the state service, the service of the political subdivisions of the state, in public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the nondisabled, unless it is shown that the particular disability is job related.

19231. As used in this article, "disabled person" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment.

A disabled individual is "substantially limited" if he or she is likely to experience difficulty in securing, retaining, or advancing in employment because of a disability.

19232. Each state agency shall be responsible for establishing an effective affirmative action program to ensure disabled persons, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population.

Each state agency shall develop and implement an affirmative action employment plan for disabled persons which shall include goals and timetables. Such goals and timetables shall be set annually for disabilities identified pursuant to guidelines established by the State Personnel Board, and shall be submitted to the board no later than June 1 of each year beginning in 1978, for review and approval or modification. Goals and timetables shall be made available to the public upon request.

19233. The State Personnel Board shall be responsible for the following:

(a) Outline specific actions to improve the representation of disabled persons in the state work force and to ensure equal and fair employment practices for disabled employees.

(b) Survey the number of disabled persons in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and compare such numbers with the number of disabled people in the work force.

(c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of the disabled in the state work force. Goals and timetables shall be set by at least job category.

19234. Each state agency shall annually review its hiring activities designed to achieve the employment objectives established pursuant to subdivision (c) of Section 19233 to determine if any category of disabled persons have been disproportionately excluded on a non-job-related basis from employment. If any category has been so excluded, the agency shall correct such underrepresentation.

19235. Each state agency shall establish a committee of disabled employees to advise the head of the agency on matters relating to the

formulation and implementation of the plan to overcome and correct any underrepresentation determined pursuant to Section 19234.

19236. The State Personnel Board shall provide technical assistance, statewide advocacy, coordination, and monitoring of plans to overcome any underrepresentation determined pursuant to Section 19234.

19237. On or before November 15 of each year, beginning in 1978, the State Personnel Board shall report to the Governor and the Legislature on the current activity, future plans, and past accomplishments of the overall employment program for the disabled in state government, including an evaluation of the achievement of annual employment objectives.

CHAPTER 1197

An act to add Section 1021.5 to the Code of Civil Procedure, relating to attorneys' fees.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 1021.5 is added to the Code of Civil Procedure, to read:

1021.5. Upon motion, a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any. With respect to actions involving public entities, this section applies to allowances against, but not in favor of, public entities, and no claim shall be required to be filed therefor.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1198

An act to amend Section 437.13 of, and to add Section 437.14 to, the Health and Safety Code, relating to health.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 437.13 of the Health and Safety Code is amended to read:

437.13. (a) Notwithstanding any other provision of law, no proposal for the remodeling of any health facility licensed on or before September 9, 1976, or for the construction of any new health facility to replace in whole or in part any existing health facility licensed on or before September 9, 1976, or for the replacement of the equipment or services of any health facility licensed on or before September 9, 1976, shall be required to be approved as provided in this part, unless the proposal involves one of the following:

(1) An increase in bed capacity.

(2) The conversion of a facility in one category of licensure to a different category of licensure.

(3) The conversion of any of a health facility's existing beds from one classification set forth in Section 1250.1 to another classification, except as authorized by Section 437.10.

(4) A significant expansion or addition of diagnostic or therapeutic capability, or a significant expansion or addition of services.

(5) Location of the health facility on a site which is not the same site or immediately adjacent thereto.

(6) The remodeling or replacement of any special service set forth in subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of Section 1255, which exceeds a cost of one hundred fifty thousand dollars ($150,000), unless a certificate of need has been obtained for such remodeling or replacement of such special service.

(7) The replacement of any diagnostic or therapeutic equipment at a cost in excess of one hundred fifty thousand dollars ($150,000), when such equipment has been in operation for five years or less. For the purposes of this paragraph, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the state department, shall be considered together.

(8) The replacement or remodeling of patient rooms and nursing stations costing in excess of two hundred fifty thousand dollars ($250,000), unless such replacement or remodeling meets the requirements of subdivision (b).

(9) Except as provided in subdivision (c), a project for the remodeling or replacement of all or any portion of a health facility or equipment thereof which is not limited to a project specified in

paragraph (6), (7), or (8) of this subdivision and the cost of which exceeds the lesser of one million five hundred thousand dollars ($1,500,000) or four thousand dollars ($4,000) multiplied by the health facility's total authorized bed capacity, excluding the cost of projects covered in paragraphs (6), (7), or (8).

(b) Any project specified in paragraph (8) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if any of the following conditions are met:

(1) Where the health facility has over the previous three years experienced an average licensed bed occupancy rate of over 80 percent, the licensed bed capacity shall not be required to be reduced by a remodeling or replacement proposal.

(2) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 76 nor more than 80 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 95 percent of the licensed bed capacity prior to the project.

(3) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 71 nor more than 75 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the licensed bed capacity prior to the project.

(4) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 66 nor more than 70 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 85 percent of the licensed bed capacity prior to the project.

(5) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not more than 65 percent, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 80 percent of the licensed bed capacity prior to the project.

(6) Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the facility's average bed occupancy rate over the previous three years was in excess of 65 percent, the licensed bed capacity shall not be required to be reduced. Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the health facility's average bed occupancy rate is below 65 percent over the previous three years, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 90

percent of the facility's licensed bed capacity prior to the project.

(c) Any project specified in paragraph (9) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if the applicant demonstrates to the satisfaction of the director that the project is necessary in order for the facility to be able to continue the provision of service in a manner consistent with current standards of practice, and that the project meets all of the following criteria:

(1) The proposed space in square feet for the project, upon completion, is not more than 5 percent net above the statewide average number of square feet per licensed bed in services or departments of comparably sized facilities approved in California during the previous two years pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5 unless the applicant demonstrates to the satisfaction of the director special requirements for additional space.

(2) Financial resources exist to successfully complete and implement the project, and the financing will not result in an undesirable increase in patient charges in the facility.

(3) The project promotes fiscal economies through measures that assure efficiency and effectiveness, which may include the operation of joint cooperative or shared facility health resources and maximum utilization of facilities.

(4) Less costly alternatives for the project were evaluated by the applicant and found not to be as desirable as the proposed project.

(5) The cost of equipment and construction is within reasonable limits and range for the area, type of project, and projected operational cost.

(6) The size of the project is based on historical or reasonably projected utilization of the service, equipment, or facility.

The state department shall adopt regulations further defining the specifics of the criteria set forth in this subdivision.

(d) For all purposes, including those specified in Section 14105.5 of the Welfare and Institutions Code and in Section 1268 of this code, it shall be deemed that a certificate of need has been issued for any proposal issued a certificate of exemption under this section.

Health facilities desiring an exemption under this section shall, pursuant to regulations of the state department, submit an application and plans to the state department. The state department shall inform the applicant in writing of its determination as to eligibility of the applicant's proposal for such exemption within 60 calendar days of receipt of the application. If the state department determines that the proposal is not eligible for such exemption, the applicant may reapply for a certificate of need as provided in Section 438 or seek judicial review.

This section shall remain in effect only until July 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends such date.

SEC. 2. Section 437.14 is added to the Health and Safety Code, to read:

437.14. (a) The state department shall not accept an application for an exemption under paragraph (8) or (9) of subdivision (a) of Section 437.13 if a certificate of exemption has been granted pursuant to such section within the two-year period immediately preceding submission of the new application, unless the applicant shows to the director's satisfaction that the new application is necessitated by emergency conditions which could not reasonably have been foreseen at the time the prior application was submitted.

(b) Except as provided in subdivision (c), a certificate of exemption issued pursuant to Section 437.13 shall expire upon failure to commence or complete the project authorized thereby within the time specified in this subdivision. Any project involving only the acquisition and installation of equipment shall be completed within two years of issuance of the certificate of exemption. Any other project issued a certificate of exemption under Section 437.13 shall be commenced within two years and completed within five years of issuance of the certificate of exemption. A project shall be deemed commenced for purposes of this subdivision if both of the following have occurred:

(1) Submission to the state department of an internal commitment of funds through a force account or the submission to the state department of a written agreement executed between the applicant and a licensed general contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans and specifications, which, if required, have been approved pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5.

(2) Completion of construction work on the project to such a degree as to justify and require a progress payment by the applicant to the general contractor under terms of the construction agreement. If the construction agreement does not require progress payments, then completion of construction shall be at that stage where an initial progress payment would otherwise be required in accordance with the usual and customary practices of the building industry.

(c) The director may extend the time for commencement or completion of a project exempted pursuant to Section 437.13 if the holder of the certificate of exemption satisfies the director that the delay is the result of an unpreventable or unexpected occurrence such as an emergency, strike, disaster, unforeseen shortage of materials, or other unforeseen event.

(d) Any project for which an exemption has been approved pursuant to Section 437.13 prior to January 1, 1978, shall not be subject to revocation of such exemption by reason of failure to meet new criteria or requirements effective on or after such date. However, the time limitations specified in subdivision (b) and (c) of this section for commencement and completion shall be applicable

to such projects.

CHAPTER 1199

An act to amend Sections 39872, 39902, 82362, and 82382 of the Education Code, to amend Sections 1502 and 1507 of the Health and Safety Code, to add and repeal Chapter 6 (commencing with Section 9500) to Division 8.5 of, and to repeal and add Chapter 5 (commencing with Section 9400) of Division 8.5 of, the Welfare and Institutions Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 39872 of the Education Code is amended to read:

39872. Food shall not be sold at any cafeteria operated by a school district to anyone except pupils and employees of any school district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act, and provided further, that the governing board of any school district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section including senior citizens participating in any program conducted pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code.

SEC. 2. Section 39902 of the Education Code is amended to read:

39902. The governing board of a school district shall employ persons for food service positions as part of the classified service, except that school districts may utilize the services of volunteers for programs which provide meals for senior citizens as authorized pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code. Wages, salaries and benefits including employer retirement contributions for all food service personnel shall be paid from the general fund of the school district. Costs of wages, salaries and benefits including employer retirement contributions and other purposes classed as food service shall be excluded from the definition of "current expense of education" as defined in Section 41372. The governing board may, at any time, order reimbursement from the cafeteria fund or the cafeteria account to the general fund of the district for payments under this

section in such amounts as it prescribes but not to exceed food service employee salary, wage and benefit costs then incurred or anticipated

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or the cafeteria account not later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or the cafeteria account shall be considered expenses of the cafeteria fund or the cafeteria account, as the case may be, and only those payments made from the general fund which are not reimbursed from the cafeteria fund or the cafeteria account shall be considered expenses of the general fund.

Accounting for such transactions shall be as prescribed in Section 41010.

SEC. 3. Section 82362 of the Education Code is amended to read:

82362. Food shall not be sold at any cafeteria operated by a community college district to anyone except students and employees of any community college district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act; and provided further, that the governing board of any district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section including senior citizens participating in any program conducted pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code.

SEC. 4. Section 82382 of the Education Code is amended to read:

82382. The governing board of a community college district shall employ persons for food service positions as a part of the classified service, except that community college districts may utilize the services of volunteers for programs which provide meals for senior citizens as authorized pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code. Wages, salaries and benefits including employer retirement contributions for all food service personnel shall be paid from the general fund of the community college district. Costs of wages, salaries and benefits including employer retirement contributions and other purposes classed as food service shall be excluded from the definition of "current expense of education" as defined in Section 84362. The governing board may, at any time, order reimbursement from the cafeteria fund or the cafeteria account to the general fund of the district for payments under this section in such amounts as it prescribes but not to exceed food service employee salary, wage and benefit costs then incurred or anticipated.

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or the cafeteria account not

later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or the cafeteria account shall be considered expenses of the cafeteria fund or the cafeteria account, as the case may be, and only those payments made from the general fund which are not reimbursed from the cafeteria fund or the cafeteria account shall be considered expenses of the general fund.

Accounting for such transactions shall be as prescribed in Section 84030.

SEC. 5. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter, "community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(a) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(b) "Day care center" means any facility which provides nonmedical care to persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(c) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

SEC. 6. Section 1507 of the Health and Safety Code is amended to read:

1507. A community care facility may provide incidental medical services. If such medical services constitute a substantial component of the services provided by the community care facility as defined by the director in regulations, such component shall be required to obtain approval as provided by Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

SEC. 7. Chapter 5 (commencing with Section 9400) of Division 8.5 of the Welfare and Institutions Code is repealed.

SEC. 8. Chapter 5 (commencing with Section 9400) is added to Division 8.5 of the Welfare and Institutions Code, to read.

CHAPTER 5. PILOT MULTIPURPOSE SENIOR SERVICES PROJECTS

Article 1. Legislative Intent and Definitions

9400. The purpose of this chapter is to establish pilot projects which would develop information about effective methods:

(a) To prevent premature disengagement of older persons from

their indigenous communities and subsequent commitment to institutions.

(b) To provide optimum accessibility of various important community social and health resources available to assist active older persons maintain independent living.

(c) To provide that the "at risk" moderately impaired or frail older person who has the capacity to remain in an independent living situation has access to the appropriate social and health services without which independent living would not be possible

(d) To provide the most efficient and effective use of public funds in the delivery of these social and health services.

(e) To coordinate, integrate, and link these social and health services including county social services by removing obstacles which impede or limit improvements in delivery of these services.

(f) To allow the state substantial flexibility in organizing or administering the delivery of social and health services to its senior citizens

9405. "Agency" means the Health and Welfare Agency.

9406. "Older person" means a person of age 60 years or older.

9407. "Multipurpose senior services" means a coordinated, integrated system of delivery of the following social and health services designed for older persons: recreation services, educational services, senior center programs, information and referral services, transportation, income maintenance counseling, housing services, outreach services, volunteer programs, employment services, legal services, home repair services, escort services, telephone reassurance services, friendly visiting services, health screening services, psychological screening services, nutrition services, home health services, homemaker chore services, portable meals, day care services, adult day health care services, nonmedical respite care services, night services, intermediate care, skilled nursing care, acute hospital care, and hospice care.

Article 2. Administration

9410. The provisions of this chapter shall be administered by the Health and Welfare Agency. In addition to its other powers, the agency shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code.

To the extent permitted by federal law, each department within the agency, including departments designated as single state agencies for the programs described in Section 9407, shall waive regulations and general policies and make resources available which are necessary for the administration of this chapter, upon request of the agency.

The agency may designate a department under its jurisdiction to implement the provisions of this chapter.

9411 The agency shall formulate criteria for pilot multipurpose

senior services projects. The criteria shall include, but need not be limited to, the following:

(a) Specifications for a sociomedical review team to evaluate older persons and to assure that a continuity of social, economic, and health services are provided to maintain such persons at the appropriate level of care.

(b) Development of social and health services necessary to maintain the older person at the appropriate level of care in the project area

(c) Specifications for the quality of the social and health services to be provided.

(d) Development of a sliding fee schedule.

(e) Coordination and integration of the social and health services described in Section 9407.

(f) Access to as many services specified in Section 9407 as possible at the same location in a facility known as a multipurpose senior services center.

(g) The number of pilot projects shall be consistent with the moneys made available for purposes of this chapter.

(h) Coordination with local governmental agencies concerned with multipurpose senior services.

(i) Specifications for the evaluation of the proposals submitted for the pilot projects and for the evaluation of the pilot projects The evaluation of the pilot project shall measure the effectiveness and the efficiency of the projects in:

(1) Identifying the health and social needs of the older persons and the coordination of the available services required to maintain persons at the appropriate level of care.

(2) Assuring that the continuity of social and health services are provided to maintain persons at the appropriate level of care.

The evaluation shall include, but not be limited to:

(1) A description of the social and economic characteristics of the older persons served by the projects.

(2) The range of problems presented by the persons served, and the services provided in response to those problems.

(3) A description of those problems best handled by the pilot project and a description of the problems least effectively handled by the pilot project.

(4) The costs of the services required to maintain persons at the appropriate level of care under a continuity of care program compared with the costs of services for persons who have not received services as components of a continuity of care program

9412. The agency shall do the following:

(a) Enter into agreements and negotiated contracts with any nonprofit organization or governmental entity to operate the one or more of the selected pilot projects consistent with the criteria adopted pursuant to Section 9411. In letting such contracts, the agency shall not anticipate future appropriations.

(b) Make grants to pilot projects from available funds

(c) Monitor pilot projects.

(d) Cause the pilot projects to be evaluated in accordance with the established criteria.

(e) Seek and utilize any available federal, state, or private funds which may be available for carrying out the purposes of this chapter.

(f) Request and secure such waivers of single-state-agency requirements as are necessary under the Federal Intergovernmental Cooperation Act of 1968 (P L. 90-577), and such other federal requirements as are necessary in order to utilize available federal funds for the purposes of this chapter.

(g) Assist in coordinating pilot projects with local governmental programs and services for older persons.

(h) Submit to the Legislature and the Governor an initial report by April 30, 1979, and a second report by April 30, 1980, on the administration of this chapter. Such reports shall include a description and evaluation of the pilot projects, characteristics of the persons served, the information required for evaluations under subdivision (i) of Section 9411, and recommendations for administrative and legislative changes.

9413 This chapter shall remain in effect only until January 1, 1981, and on such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date. In this regard, it is the intent of the Legislature to evaluate the second report submitted pursuant to subdivision (h) of Section 9412 to determine whether pilot projects conducted under this chapter have had sufficient positive impact to warrant their continuation.

SEC. 9. Chapter 6 (commencing with Section 9500) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 6. NUTRITION AND VOLUNTEER SERVICES PROGRAM FOR SENIOR CITIZENS

9500. The Legislature hereby declares that it is in the interest of the state and the people thereof to encourage entities in the public and private sector to establish a program whereby senior citizens are provided one meal per day at minimal or no cost and the opportunity to volunteer their services for the betterment of the community.

9501. For purposes of this chapter, "senior citizens" means persons 60 years of age or older.

"Entities" includes, but is not limited to, school districts, county superintendents of schools, community college districts, cities, counties, other public agencies, private business entities, private institutions, and other private organizations.

9502. The program set forth by this chapter shall be known as the Nutrition and Volunteer Services Program for Senior Citizens and shall be administered by the department. The department shall have authority to adopt regulations and guidelines to carry out the provisions of this chapter.

9503. The department shall establish pilot projects in

Sacramento, San Diego and Humboldt Counties. The department shall establish pilot projects which provide senior citizens with one meal per day, and in addition, pilot projects which provide senior citizens the opportunity to volunteer their services in both the public and private sector to meet a variety of needs in the community. Projects which elect to provide such opportunity shall provide volunteers with one meal per day for their services and transportation to and from the volunteer site.

The department shall establish such pilot projects by contracting with qualified entities.

The department shall, to the extent possible, give preference to school and community college districts in selecting applicants for contracts to establish pilot projects pursuant to this chapter.

9504. (a) Senior citizen volunteers may be utilized in any project facility to help provide meals or other activities to meet a variety of community service needs.

(b) Senior citizen volunteers utilized pursuant to this chapter shall not be employees of the grantee agency and shall serve without compensation, except as provided in subdivision (d), or other benefits, including workers' compensation benefits, which are afforded employees of the entity administering the project.

(c) Senior citizen volunteers utilized to help provide meals to senior citizens under this chapter shall not be subject to any requirements of law governing the licensing or certifying of kitchen help, except that minimum standards for such volunteers shall include health standards established by the county for food service workers.

(d) Senior citizen volunteers utilized to help provide meals for senior citizens may be provided expenses for transportation to and from their home to the place where they render their services or may have transportation in schoolbuses or other transportation made available to them by the entity for which they render services. In addition, such senior citizen volunteers shall receive a free meal for each meal which they help to provide.

(e) All senior citizen volunteers participating in any program under this chapter shall be deemed to have waived all claims against the entity administering the program for injury, accident, illness, or death occurring during or by reason of their services for the entity or from use of any transportation services provided, and, as a condition of their rendering services or using transportation, shall sign a statement waiving such claim.

(f) No entity administering a program which is a school or community college district may abolish any of its classified positions and utilize senior citizen volunteers, as authorized herein, in lieu of classified employees who are laid off as a result of the abolition of a position; nor may a district refuse to employ a person in a vacant classified position and use senior citizen volunteers in lieu thereof.

(g) It is the intent of the Legislature to encourage the use of senior citizen volunteers but not to permit displacement of classified or

regular employees or to allow the use of senior citizen volunteers in lieu of normal employee requirements.

9505 Entities administering projects pursuant to this chapter shall attempt to receive available federal funds for such projects.

If federal funds are utilized for any project, senior citizens shall not be required to pay any fee for meals that are provided pursuant to this chapter, unless specially required by federal law and except that donations for meals may be accepted.

A senior citizen may be charged up to fifty cents ($0.50) for a meal provided by a project established pursuant to this chapter, but where need can be demonstrated, a senior citizen may be issued a card entitling him to free meals. In no instance may the charge exceed the average cost of the meal less federal, state, and local funds provided for such meal.

9506 Meals provided to senior citizens under the provisions of this chapter shall not be required to comply with federal nutrition guidelines.

9507. (a) Funds appropriated for the purposes of the Nutrition and Volunteer Services Program for Senior Citizens shall be used to provide meals for senior citizens participating and shall not be used to enrich services for individuals participating in existing nutrition programs.

(b) Funds appropriated for support of the Nutrition and Volunteer Services Program for Senior Citizens from the Transportation Planning and Research Account may be utilized to provide transportation for program participants to and from the program site

(c) The expenditures of programs established pursuant to this chapter shall not exceed the funds made available to such programs pursuant to this chapter

9508. Any entity administering a program shall be eligible to accept and is encouraged to obtain such gifts, donations, bequests, devises and other valuable consideration, including services to be rendered, for the purposes of the program conducted pursuant to this chapter.

9509. The Public Utilities Commission may require any public utility within its jurisdiction to participate in, and to allow facilities to be used for, the purposes of the Nutrition and Volunteer Services Program for Senior Citizens Program.

9510 In order to assist the department in the performance of its duties pursuant to this chapter, there is hereby created an advisory committee. It shall be the responsibility of the advisory committee to advise the department on any and all matters coming within the purview of this chapter.

Three members of the advisory committee shall be appointed by the Governor. The Speaker of the Assembly and the President pro Tempore of the Senate shall each appoint one member. Each member shall serve at the pleasure of the appointing power and shall serve without compensation or reimbursement for expenses.

9511. The department shall conduct an evaluation of each pilot project and submit a report to the Legislature and the Governor on or before July 1, 1980. The evaluation and report shall include, but not be limited to, the following areas of inquiry:

(a) A comparison of the meals component of the pilot project with the nutrition program currently administered by the department under the provisions of Title VII of the Older Americans Act of 1965, as amended, including the average cost per meal and the number of persons served

(b) The feasibility and impact of implementing a means requirement for the meals component, including alternative methods and measures.

(c) An examination of the impact of the volunteer service component both in terms of the individual and the agency receiving services

9512. This chapter shall remain in effect only until January 1, 1981, and, as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC. 10. It is the intent of the Legislature that the portion of the moneys appropriated in Item 241.3 of the Budget Act of 1977 (Ch. 219, Stats. 1977) which is allocated for multipurpose senior service projects shall be expended for the purposes of Chapter 5 (commencing with Section 9400) of Division 8.5 of the Welfare and Institutions Code, as added by Section 8 of this act.

SEC. 11. Notwithstanding the limitations of Section 2 of the Budget Act of 1977 (Ch. 219, Stats. 1977), nine hundred thousand dollars ($900,000) of the amount appropriated in Item 241.3 of that act shall be available for encumbrance without regard to fiscal years for the purposes specified in Item 241.3 and Section 9 of this act.

SEC. 12. (a) There is hereby appropriated from the General Fund to the Department of Aging, the following sums for the following fiscal years for the purposes of carrying out the nutrition component established pursuant to Sections 9505, 9506, and subdivision (a) of 9507 of the Welfare and Institutions Code, as added by this act:

(1) For fiscal year 1977–78 ..... $150,000
(2) For fiscal year 1978–79 300,000
(3) For fiscal year 1979–80 300,000
(4) For fiscal year 1980–81 150,000

(b) There is hereby appropriated from the Transportation Planning and Research Account in the State Transportation Fund for allocation by the Secretary of Business and Transportation to the Department of Aging, the following sums for the following fiscal years for the purposes of carrying out the transportation component established pursuant to subdivision (b) of Section 9507 of the Welfare and Institutions Code, as added by this act.

(1) For fiscal year 1977–78 ..... $25,000
(2) For fiscal year 1978–79 50,000

(3) For fiscal year 1979–80 50,000
(4) For fiscal year 1980–81 25,000

(c) Not more than 7 percent of the funds appropriated in any fiscal year may be used for administrative costs incurred by the department.

CHAPTER 1200

An act to add Chapter 4.5 (commencing with Section 65920) to Division 1 of Title 7 of the Government Code, and to amend Sections 21002.1, 21080, 21080.5, 21083 5, 21104, 21105, 21151.5, 21153, 21165, 21166, 21167, and 21174 of, and to add Sections 21080.1, 21080.2, 21080.3, 21080.4, 21083.6, 21083 7, 21100.2, 21167.2, and 21167.3 to, the Public Resources Code, relating to development projects, and making an appropriation therefor

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 4.5 (commencing with Section 65920) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4 5. REVIEW AND APPROVAL OF DEVELOPMENT PROJECTS

Article 1. General Provisions

65920. Notwithstanding any other provision of law, the provisions of this chapter shall apply to all public agencies to the extent specified in this chapter. To the extent that the provisions of this chapter conflict with any other provision of law, the provisions of this chapter shall prevail.

65921 The Legislature finds and declares that there is a statewide need to ensure clear understanding of the specific requirements which must be met in connection with the approval of development projects and to expedite decisions on such projects. Consequently, the provisions of this chapter shall be applicable to all public agencies, including charter cities

65922. The provisions of this chapter shall not apply to the State Energy Resources Conservation and Development Commission.

65923 The Office of Planning and Research shall ensure that all state agencies comply with applicable requirements of this chapter.

65924. With respect to any development project an application for which has been accepted as complete prior to January 1, 1978, the deadlines specified in Sections 65950 and 65952 shall be measured from January 1, 1978

Article 2. Definitions

65925. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

65926. "Air pollution control district" means any district created or continued in existence pursuant to the provisions of Part 3 (commencing with Section 40000) of Division 26 of the Health and Safety Code.

65927. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

65928. "Development project" means any project undertaken for the purpose of development.

65929. "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project.

65930. "Local agency" means any public agency other than a state agency. For purposes of this chapter, a redevelopment agency and a local agency formation commission are local agencies and neither is a state agency.

65931. "Project" means any activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

65932. "Public agency" means any state agency, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision.

65933. "Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.

65934. "State agency" means any agency, board, or commission of state government. For all purposes of this chapter, the term "state agency" shall include an air pollution control district.

Article 3. Applications for Development Projects

65940. Not later than June 30, 1978, each state agency shall compile one or more lists which shall specify in detail the information which will be required from any applicant for a development project. Copies of such information shall be made available to all applicants for development projects and to any person who requests such information.

65941. The information compiled pursuant to Section 65940 shall also indicate the criteria which such agency will apply in order to determine the completeness of any application submitted to it for a development project.

65942. The information and the criteria specified in Sections 65940 and 65941 shall be revised as needed so that they shall be current and accurate at all times.

65943. Not later than 30 calendar days after any public agency has received an application for a development project, such agency shall determine in writing whether such application is complete and shall immediately transmit such determination to the applicant for the development project. In the event that the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete.

65944. After a public agency accepts an application as complete, such agency shall not subsequently request of an applicant any new or additional information which, with respect to a state agency, was not specified in the list prepared pursuant to Section 65940, or, with respect to a local agency, was not required as part of the application. Such agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

Article 4. Consolidated Hearings on Development Projects

65945. In the event that a development project requires approval by more than one public agency, the Office of Planning and Research shall, to the maximum extent feasible, consolidate the various hearings which may be required in order to minimize the time required for such hearings. Such consolidation shall be for procedural purposes only and shall not be construed as consolidating the statutory responsibilities of the public agencies conducting the consolidated hearings.

Article 5. Approval of Development Permits

65950. Any public agency which is the lead agency for a development project shall approve or disapprove such project within one year from the date on which an application requesting approval of such project has been received and accepted as complete by such

agency.

65951. In the event that a combined environmental impact report-environmental impact statement is being prepared on a development project pursuant to Section 21083.6 of the Public Resources Code, a lead agency may waive the time limits established in Section 65950. In any event, such lead agency shall approve or disapprove such project within 60 days after the combined environmental impact report-environmental impact statement has been completed and adopted.

65952. Any public agency which is a responsible agency for a development project shall approve or disapprove such project within whichever of the following periods of time is longer:

(a) Within 180 days from the date on which the lead agency has approved or disapproved such project.

(b) Within 180 days of the date on which completed applications for such projects have been received and accepted as complete by each such responsible agency.

65953. All time limits specified in this article are maximum time limits for approving or disapproving development projects. All public agencies shall, if possible, approve or disapprove development projects in shorter periods of time.

65954. The time limits established by this article shall not apply in the event that federal statutes or regulations require time schedules which exceed such time limits.

65955. The time limits established by this article shall not apply to applications to appropriate water where such applications have been protested pursuant to Chapter 4 (commencing with Section 1330) of Part 2 of Division 2 of the Water Code.

65956. In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a project within the time limits required by this article, such failure to act shall be deemed approval of the development project.

65957. The time limits established by Sections 65950 and 65952 may be extended for a period not to exceed 90 days upon consent of the public agency and the applicant.

SEC. 1.5. Section 21002.1 of the Public Resources Code is amended to read:

21002.1. In order to achieve the objectives set forth in Section 21002, the Legislature finds and declares that the following policy shall apply to the use of environmental impact reports prepared pursuant to the provisions of this division:

(a) The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.

(b) Each public agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.

(c) In the event that economic, social, or other conditions make

it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of a public agency, provided that the project is otherwise permissible under applicable laws and regulations.

(d) In applying the policies of subdivisions (b) and (c) to individual projects, the responsibility of a public agency which is functioning as a lead agency shall differ from that of a public agency which is functioning as a responsible agency. A public agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A public agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve. The provisions of this subdivision shall apply only to decisions by a public agency to carry out or approve a project and shall not limit the scope of the comments such agency may wish to make pursuant to Section 21104 or 21153.

SEC. 2. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such lead agency shall adopt a negative declaration to that effect.

SEC. 3. Section 21080.1 is added to the Public Resources Code, to read:

21080.1. The lead agency shall have the responsibility for

determining whether an environmental impact report or a negative declaration shall be required for any project subject to the provisions of this division. Such determination shall be final and conclusive on all persons, including responsible agencies, unless challenged as provided in Section 21167

SEC. 4. Section 21080.2 is added to the Public Resources Code, to read:

21080.2. In the case of a project described in subdivision (c) of Section 21065, the determination required by Section 21080.1 shall be made within 45 days from the date on which an application for a project has been received and accepted as complete by the lead agency.

SEC. 5. Section 21080.3 is added to the Public Resources Code, to read:

21080.3. (a) Prior to determining whether a negative declaration or environmental impact report is required for a project, the lead agency shall consult with all responsible agencies.

(b) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist such lead agency in determining the various responsible agencies for a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

SEC. 6. Section 21080.4 is added to the Public Resources Code, to read:

21080.4. (a) In the event that a lead agency determines that an environmental impact report is required for a project, such lead agency shall immediately send notice of such determination by certified mail to each responsible agency. Upon receipt of such notice, each responsible agency shall specify to the lead agency the scope and content of the environmental information which is germane to such responsible agency's statutory responsibilities in connection with the proposed project and which, pursuant to the requirements of this division, shall be included in the environmental impact report. Such information shall be specified in writing and shall be communicated to the lead agency by certified mail not later than 45 days after receipt of the notice of the lead agency's determination. The lead agency shall request similar guidance from appropriate federal agencies.

(b) In order to expedite the requirements of subdivision (a), the lead agency or any responsible agency may request one or more meetings between representatives of such agencies for the purpose of assisting the lead agency to determine the scope and content of the environmental information such responsible agency may require. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant. Such meetings shall be convened by the lead agency as soon as possible, but no later than 30 days, after they have been requested.

(c) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist such lead agency in determining the various responsible agencies and any federal agencies which have responsibility for carrying out or approving a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

(d) In the event that a state agency is a responsible agency subject to the requirements of subdivision (a), the Office of Planning and Research shall ensure that the information required by subdivision (a) is transmitted to the lead agency within the required time period.

SEC. 6.5. Section 21080.5 of the Public Resources Code is amended to read:

21080.5. (a) When the regulatory program of a state agency, board, or commission requires a plan or other written documentation, containing environmental information and complying with the requirements of paragraph (3) of subdivision (d) of this section, to be submitted in support of any of the activities listed in subdivision (b), such plan or other written documentation may be submitted in lieu of the environmental impact report required by this division; provided, that the Secretary of the Resources Agency has certified the regulatory program pursuant to this section.

(b) The provisions of this section shall apply only to regulatory programs or portions thereof which involve:

(1) The issuance to a person, other than a public agency, of a lease, permit, license, certificate, or other entitlement for use; or

(2) The adoption or approval of standards, rules, regulations or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from the provisions of Chapter 3 (commencing with Section 21100) of this division.

(d) In order to qualify for certification pursuant to this section, a regulatory program shall require utilization of an interdisciplinary approach which will ensure the integrated use of the natural and social sciences in decisionmaking and shall meet all of the following criteria;

(1) The enabling legislation of the regulatory program shall:

(i) Include protection of the environment among its principal purposes.

(ii) Contain authority for the administering agency to promulgate rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(2) The rules and regulations adopted by the administering agency shall:

(i) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

(ii) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program

(iii) Require the administering agency to consult with all public agencies which have jurisdiction, by law, with respect to the proposed activity.

(iv) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(v) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Such notices shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the office of the Resources Agency Each such list shall remain posted for a period of 30 days

(vi) Require notice of the filing of the plan or other written documentation to be made to the public and to any person who requests, in writing, such notification. The notification shall be made in a manner that will provide the public or any such person with sufficient time to review and comment on such filing.

(3) The plan or other written documentation required by the regulatory program shall:

(i) Include a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse environmental impact.

(ii) Be available for a reasonable time for review and comment by other public agencies and the general public.

(e) The Secretary of the Resources Agency shall certify a regulatory program which the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program no longer meets such qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency, board, or commission approving or adopting a proposed activity under a regulatory program which has been certified pursuant to this section on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with the provisions of this section shall be commenced no later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

SEC. 7. Section 21083.5 of the Public Resources Code is amended to read:

21083.5. The guidelines prepared and adopted pursuant to Section 21083 shall provide that when an environmental impact statement

has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 and implementing regulations thereto, all or any part of such statement may be submitted in lieu of all or any part of an environmental impact report required by this division, provided that such statement, or the part thereof so used, shall comply with the requirements of this division and the guidelines adopted pursuant thereto.

SEC. 8. Section 21083.6 is added to the Public Resources Code, to read:

21083.6. In the event that a project requires both an environmental impact report prepared pursuant to the requirements of this division and an environmental impact statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, an applicant may request and the lead agency may waive the time limits established pursuant to Section 21100.2 or 21151.5 if it finds that additional time is required to prepare a combined environmental impact report-environmental impact statement and that the time required to prepare such a combined document would be shorter than that required to prepare each document separately.

SEC. 9. Section 21083.7 is added to the Public Resources Code, to read:

21083.7. In the event that a project requires both an environmental impact report prepared pursuant to the requirements of this division and an environmental impact statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the lead agency shall, whenever possible, use the environmental impact statement as such environmental impact report as provided in Section 21083.5 In order to implement the provisions of this section, each lead agency to which this section is applicable shall consult, as soon as possible, with the agency required to prepare such environmental impact statement.

SEC. 10. Section 21100.2 is added to the Public Resources Code, to read:

21100.2. Each state agency shall establish, by resolution or order, time limits, not to exceed one year for completing and certifying environmental impact reports, and 105 days for negative declarations, for projects described in subdivision (c) of Section 21065. Such time limits shall apply only to those circumstances in which such state agency is the lead agency for a project. Such resolutions or orders may establish different time limits for different types or classes of projects, but all such limits shall be measured from the date on which an application requesting approval of such project is received and accepted as complete by the state agency. The resolutions or orders required by this section may provide for a reasonable extension of such time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

SEC. 11 Section 21104 of the Public Resources Code is amended

to read:

21104. Prior to completing an environmental impact report, the state lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved.

The state lead agency shall consult with, and obtain comments from, the State Air Resources Board in preparing an environmental impact report on a highway or freeway project, as to the air pollution impact of the potential vehicular use of such highway or freeway.

SEC. 12. Section 21105 of the Public Resources Code is amended to read:

21105. The state lead agency shall include the environmental impact report as a part of the regular project report used in the existing review and budgetary process. It shall be available to the Legislature. It shall also be available for inspection by any member of the general public, who may secure a copy thereof by paying for the actual cost of such a copy. It shall be filed by the state lead agency with the appropriate local planning agency of any city, county, or city and county which will be affected by the project.

SEC. 13. Section 21151.5 of the Public Resources Code is amended to read:

21151.5. Each local agency shall establish, by ordinance or resolution, time limits, not to exceed one year for completing and certifying environmental impact reports, and 105 days for negative declarations, for projects described in subdivision (c) of Section 21065. Such time limits shall apply only to those circumstances in which such local agency is the lead agency for a project. Such ordinances or resolutions may establish different time limits for different types or classes of projects, but all such limits shall be measured from the date on which an application requesting approval of such project is received and accepted as complete by the local agency. The ordinances required by this section may provide for a reasonable extension of such time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

SEC. 14. Section 21153 of the Public Resources Code is amended to read:

21153. Prior to completing an environmental impact report, every local lead agency shall consult with, and obtain comments from, each responsible agency and any public agency which has jurisdiction by law with respect to the project, and may consult with any person who has special expertise with respect to any environmental impact involved.

SEC. 15. Section 21165 of the Public Resources Code is amended to read:

21165. When a project is to be carried out or approved by two or more public agencies, the determination of whether the project may

have a significant effect on the environment shall be made by the lead agency; and such agency shall prepare, or cause to be prepared by contract, the environmental impact report for the project, if such a report is required by this division In the event that a dispute arises as to which is the lead agency, any public agency, or in the case of a project described in subdivision (c) of Section 21065 the applicant for such project, may submit the question to the Office of Planning and Research, and the Office of Planning and Research shall designate, within 21 days of receiving such request, the lead agency, giving due consideration to the capacity of such agency to adequately fulfill the requirements of this division.

SEC. 16. Section 21166 of the Public Resources Code is amended to read:

21166. When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

SEC. 17. Section 21167 of the Public Resources Code is amended to read:

21167. Any action or proceeding to attack, review, set aside, void, or annul the following acts or decisions of a public agency on the grounds of noncompliance with this division shall be commenced as follows:

(a) An action or proceeding alleging that a public agency is carrying out or has approved a project which may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment shall be commenced within 180 days of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days after commencement of the project.

(b) Any action or proceeding alleging that a public agency has improperly determined whether a project may have a significant effect on the environment shall be commenced within 30 days after the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152

(c) Any action or proceeding alleging that an environmental impact report does not comply with the provisions of this division shall be commenced within 30 days after the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of

Section 21152 by the lead agency.

(d) Any action or proceeding alleging that a public agency has improperly determined that a project is not subject to the provisions of this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172 shall be commenced within 35 days after the filing by the public agency, or person specified in subdivision (b) or (c) of Section 21065, of the notice authorized by subdivision (b) of Section 21108 or subdivision (b) of Section 21152. If such notice has not been filed, such action or proceeding shall be commenced within 180 days of the public agency's decision to carry out or approve the project, or, if a project is undertaken without a formal decision by the public agency, within 180 days after commencement of the project.

(e) Any action or proceeding alleging that any other act or omission of a public agency does not comply with the provisions of this division shall be commenced within 30 days after the filing of the notice required by subdivision (a) of Section 21108 or subdivision (a) of Section 21152.

SEC. 18. Section 21167.2 is added to the Public Resources Code, to read:

21167.2. If no action or proceeding alleging that an environmental impact report does not comply with the provisions of this division is commenced during the period prescribed in subdivision (c) of Section 21167, the environmental impact report shall be conclusively presumed to comply with the provisions of this division for purposes of its use by responsible agencies, unless the provisions of Section 21166 are applicable.

SEC. 19. Section 21167.3 is added to the Public Resources Code, to read:

21167.3. If an action or proceeding alleging that an environmental impact report does not comply with the provisions of this division is commenced during the period described in subdivision (c) of Section 21167, responsible agencies shall assume that the environmental impact report for a project does comply with the provisions of this division and shall issue a conditional approval or disapproval of such project according to the timetable for agency action in Article 5 (commencing with Section 65950) of Chapter 4.5 of Division 1 of Title 7 of the Government Code. A conditional approval shall constitute permission to proceed with a project when and only when such action or proceeding results in a final determination that the environmental impact report does comply with the provisions of this division.

SEC. 19.1. Section 21174 of the Public Resources Code is amended to read:

21174. No provision of this division is a limitation of restriction on the power or authority of any public agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer, including, but not limited to, the powers and authority granted to the California Coastal

Commission or any regional coastal commission pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code. To the extent of any inconsistency or conflict between the provisions of the California Coastal Act of 1976, Division 20 (commencing with Section 30000) of the Public Resources Code, and the provisions of this division, the provisions of Division 20 (commencing with Section 30000) of the Public Resources Code shall control.

SEC. 19.2. Nothing in Division 13 (commencing with Section 21000) of the Public Resources Code shall be construed to apply to any action or activity governed by Division 7 (commencing with Section 12501) of the Food and Agricultural Code This section shall remain in effect only until July 1, 1978 and, as of such date is repealed. In enacting this section, the Legislature does not intend any comment upon the issues raised in Attorney General's Opinion No. 5075/16.

SEC. 19.3. The sum of four hundred three thousand fifty dollars ($403,050) is hereby appropriated from the General Fund in the State Treasury for expenditure during the 1977–1978 fiscal year in accordance with the following schedule:

(a) The sum of three hundred thirty-one thousand two hundred fifty dollars ($331,250) to the State Water Resources Control Board in support of the cost of meeting the various deadlines imposed by this act.

(b) The sum of twenty-five thousand dollars ($25,000) to the Department of Fish and Game in support of the cost of meeting the responsibilities imposed by this act.

(c) The sum of forty-six thousand eight hundred dollars ($46,800) to the Office of Planning and Research in support of the cost of meeting the responsibilities imposed by this act.

SEC. 20. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing

with Section 8550) of Division 1 of Title 2 of the Government Code

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves

(6) Actions undertaken by a public agency relating to any powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the purchase of equipment, fuel, steam, or power for such a powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such lead agency shall adopt a negative declaration to that effect

SEC. 21. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic games.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such lead

agency shall adopt a negative declaration to that effect.

SEC. 22. Section 21080 of the Public Resources Code is amended to read:

21080 (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where such a project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the purchase of equipment, fuel, steam, or power for such a powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic games.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, such lead agency shall adopt a negative declaration to that effect.

SEC. 23. It is the intent of the Legislature that if this bill and Assembly Bill No. 1466 or Senate Bill No. 1040, or both, are chaptered and become effective on or before January 1, 1978, each of the bills amend Section 21080 of the Public Resources Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill No. 1466 are both chaptered and become effective January 1, 1978, both bills amend Section 21080 of the Public Resources Code, but Senate Bill No. 1040 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1466, the amendments proposed by both bills shall be given effect and incorporated in Section 21080 in the form set forth in Section 20 of this act. Therefore, if this bill and Assembly Bill No. 1466 are both chaptered and become effective January 1, 1978, both bills amend Section 21080, this bill is chaptered after Assembly Bill No. 1466, and Senate Bill No. 1040 is not chaptered or as chaptered does not amend that section, Section 20 of this act shall be operative and Sections 2, 21, and 22 of this act shall not become operative.

(2) If this bill and Senate Bill No. 1040 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 21080 of the Public Resources Code, but Assembly Bill No. 1466 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1040, Section 21080 of the Public Resources Code, as amended by Section 1 of Senate Bill No. 1040, shall be further amended on the effective date of this act in the form set forth in Section 21 of this act to incorporate the changes in Section 21080 proposed by this bill. Therefore, if this bill and Senate Bill No. 1040 are both chaptered and become effective on or before January 1 1978, both bills amend Section 21080, this bill is chaptered after Senate Bill No. 1040, and Assembly Bill No. 1466 is not chaptered or as chaptered does not amend that section, Section 21 shall be operative and Sections 2, 20, and 22 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 1466 and Senate Bill No. 1040 are all chaptered and become effective on or before January 1, 1978, all three bills amend Section 21080 of the Public Resources Code, and this bill is chaptered after Assembly Bill No. 1466 and Senate Bill No. 1040, Section 21080 of the Public Resources Code, as amended by Section 1 of Senate Bill No. 1040, shall be further amended on the effective date of this act in the form set forth in Section 22 of this act to incorporate the changes proposed by all three bills. Therefore, if this bill and Assembly Bill No. 1466 and Senate Bill No. 1040 are all chaptered and become effective on or before January 1, 1978, all three bills amend Section 21080 of the Public Resources Code, and this bill is chaptered after Assembly Bill No. 1466 and Senate Bill No. 1040, Section 22 of this act shall be operative and Sections 2, 20, and 21 of this act shall not become operative.

SEC. 24. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations, or responsibilities imposed on local government by this act.

CHAPTER 1201

An act to amend Sections 69760, 69769, and 69770 of, and to add Sections 69760.5, 69761.5, 69772, 69774, 69775, 69776, 69777, and 69779 to, the Education Code, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 69760 of the Education Code is amended to read:

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

SEC. 2 Section 69760.5 is added to the Education Code, to read:

69760.5. In authorizing commission participation in the federal Guaranteed Student Loan program, pursuant to the 1976 Higher Education Act Amendments (P.L. 94-482), the Legislature finds and declares:

(a) Direct federal administration of the Guaranteed Student Loan program has resulted in bureaucratic problems, high default rates, and rapidly decreasing participation of private lenders.

(b) The Congress has moved positively to diminish student abuse of the program and encourage state participation through creation of state student loan guarantee agencies.

(c) Twenty-six states now operate student loan guarantee agencies; student loan volume in these states increased seventy million dollars ($70,000,000) last year compared to a ninety-three million dollar ($93,000,000) drop in student loans in states without guarantee agencies, including California.

(d) Commission participation as a student loan guarantee agency, at no cost to the General Fund, will increase available student loans for needy students, especially for middle-income students and families.

SEC. 3. Section 69761.5 is added to the Education Code, to read:

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

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

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

(c) Students from families with adjusted incomes under twenty-five thousand dollars ($25,000), as defined by the commission shall be eligible for federal subsidy of loan interest.

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

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

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

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

SEC. 4. Section 69769 of the Education Code is amended to read:

69769. The commission shall establish a Loan Study Council. The Loan Study Council shall be comprised of 15 members, appointed by the commission, comprised of representatives of students, postsecondary educational institutions, and private lenders.

SEC. 5. Section 69770 of the Education Code is amended to read:

69770. The Loan Study Council shall study the operation of the State Guaranteed Loan Program under this chapter and shall advise the commission.

SEC. 6. Section 69772 is added to the Education Code, to read:

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

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

(b) On or before July 1, 1978, report on the desirability and feasibility of becoming a direct lender, particularly to serve students not adequately served by private lenders.

SEC. 8. Section 69774 is added to the Education Code, to read.

69774. A common student application form may be utilized for student loans in compliance with the program eligibility and financial forms specified in Section 69534.

SEC. 9. Section 69775 is added to the Education Code, to read:

69775. The commission shall develop and distribute in cooperation with postsecondary educational institutions and private lenders, simple, common consumer information for prospective student borrowers. The commission shall, by December 1, 1978, report on the impact of graduates' underemployment rates on student loan default rates of recent graduates.

SEC. 10. Section 69776 is added to the Education Code, to read:

69776. The commission may contract for all or part of

administrative support services.

SEC. 11. Section 69777 is added to the Education Code, to read.

69777. The commission shall encourage private lenders to increase participation in the guaranteed student loan program.

SEC. 13. Section 69779 is added to the Education Code, to read:

69779. The General Fund shall not be liable for any student loan made prior to the effective date of the chapter which enacts this section.

SEC. 14. There is hereby appropriated the sum of two million dollars ($2,000,000) from the General Fund to the State Controller for a loan to the Student Aid Commission for the 1977–78, 1978–79, and 1979–80 fiscal years to be utilized for administrative startup costs and, through the State Guaranteed Loan Reserve Fund established by Section 69766 of the Education Code, for the purpose of purchasing for collection defaulted loans from lending agencies. The loan for carrying out the purposes of this act, along with interest at the rate earned on funds deposited in the Pooled Money Investment Fund, shall be repaid to the General Fund by the 1985–86 fiscal year from revenues derived from repayments of state guaranteed loans.

CHAPTER 1202

An act to add and repeal Chapter 3 (commencing with Section 94300) to Part 59 of, and to repeal Chapter 3 (commencing with Section 94300) of Part 59 of, the Education Code, relating to private educational institutions.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 3 (commencing with Section 94300) of Part 59 of the Education Code is repealed.

SEC. 2. Chapter 3 (commencing with Section 94300) is added to Part 59 of the Education Code, to read:

CHAPTER 3. PRIVATE POSTSECONDARY INSTITUTIONS

Article 1. General Provisions

94300. This chapter shall be known and may be cited as the "Private Postsecondary Education Act of 1977."

94301. It is the intent of this Legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions.

It is also the intent of the Legislature to encourage the recognition

by tax-supported institutions of work completed and degrees and diplomas issued by privately supported institutions, to the end that students may have equal opportunities for equal accomplishment and ability.

In the present period, the need for educational services is so great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These objectives can best be achieved by protecting the integrity of degrees and diplomas issued by such institutions.

93402. As used in this chapter, unless the context requires otherwise:

(a) "Agent" means any person who, at a place away from the principal school premises or site of instruction, whose primary task is to serve as a paid recruiter, while owning an interest in, employed by, or representing for remuneration or other consideration a private postsecondary educational institution located within or without this state, offers or attempts to secure enrollment of any person within this state and accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances are exempted from this definition.

(b) "Agent's permit" means a nontransferable written document issued to an agent pursuant to the provisions of this chapter by the Superintendent of Public Instruction.

(c) "Approval to operate" means that the institution so approved has met recognized and accepted standards as determined by the Superintendent of Public Instruction in carrying out the provisions of this chapter to operate a postsecondary educational institution in this state.

(d) "Authorization to operate" means that the institution so authorized has been granted permission by the Superintendent of Public Instruction to operate as a postsecondary educational institution.

(e) "Council" means the Council for Private Postsecondary Educational Institutions established pursuant to Section 94304.

(f) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(g) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree.

(h) "Education" or "education services" includes, but is not limited to, any class, course, or program of training, instruction, or study.

(i) "Superintendent" refers to the Superintendent of Public

Instruction.

(j) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(k) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational degrees or diplomas are offered or granted.

(*l*) "Postsecondary educational institution" or "institution" includes, but is not limited to, an academic, vocational, technical, business, professional, home study school, college, or university, or other organization (comprised of a person, firm, association, partnership, or corporation) which offers educational degrees or diplomas, or offers instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance. Auxiliary organizations of the California State University and Colleges are not included within this division and are not governed by this article.

(m) "Vocational objective" means an objective which is ordinarily attained upon completion of a course which qualifies the person or leads to employment in a recognized occupation listed in the latest "Dictionary of Occupational Titles," issued by the United States Department of Labor, or declared by that department to be eligible for such listing, or leading to an employable objective determined by the council

(n) "Professional objective" means an objective which ordinarily is attained upon the completion of a curriculum or program of studies leading to a recognized profession or semiprofession.

(o) "Educational objective" means an objective which ordinarily is attained upon the completion of a program consisting of any curriculum, or any combination of unit courses or subjects offered by an educational institution which normally leads to earning a college degree.

(p) "Technological objective" means one which is ordinarily attained upon completion of a curriculum or program of studies which emphasizes the application of principles to the solution of practical problems rather than the theoretical development of those principles.

94303. The following education and educational institutions, and these only, are exempted from the provisions of this chapter:

(a) Education solely avocational or recreational in nature, as determined by the superintendent, and institutions offering such education exclusively.

(b) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination if such education is limited to instructions in the principles of that church or denomination, or to courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma or degree is limited

to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church or denomination.

(c) Institutions exclusively offering instruction at any or all levels from preschool through 12th grade.

(d) Postsecondary educational institutions established, operated, and governed by this state or its political subdivisions.

(e) Education sponsored by a bona fide trade, business, professional, or fraternal organization which is recognized by the superintendent as being solely for that organization's membership and offered at no charge for the persons taking the course.

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the superintendent, or his designee, and 14 additional members who shall be appointed by the superintendent, subject to the concurrence of the State Board of Education, as follows:

(1) Seven members shall be administrative heads of institutions operating under the authority of this chapter. Four such members shall be selected from institutions operating under subdivision (c) or (d) of Section 94311; one member shall be selected from an institution operating under subdivision (a) or (b) of Section 94310; and one member shall be selected from an institution operating under subdivision (c) of Section 94310. If an individual ceases to be an administrative head of an institution operating under the authority of this chapter, then the council position becomes vacant.

(2) Seven shall represent the public Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of persons in positions requiring vocational and technical skills

(3) In addition, the following shall serve as ex officio members of the council.

(i) The Director of the Department of Consumer Affairs, or his or her designee.

(ii) The Director of the Department of Employment Development, or his or her designee.

(iii) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(b) The first members shall be appointed on or before January 15, 1973, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the director, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of the provisions of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivision (b) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal

responsibility, which applicants for authorization to operate, or for an agent's permit, shall meet before such authorization or permit may be issued, and to continue such authorization or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of such appeals and complaints.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

94305. It is the intent of the Legislature that the superintendent meet regularly with the council, and that the superintendent work cooperatively with the council in providing leadership and direction in the continuing development of private postsecondary education

The superintendent shall:

(a) Establish policy for the administration of this chapter in cooperation with the council.

(b) Adopt regulations in cooperation with the council not inconsistent with this chapter governing the exercise of authority comprised by this article which shall be adopted in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Prepare annually a proposed budget for the support of activities of the Department of Education pursuant to this article The proposed budget shall be presented to the council for its review and recommendations

(d) Consult with the council prior to instituting any action to deny, suspend or withdraw recognition of courses or schools pursuant to this article.

(e) Meet with the council at least twice per year. Take into consideration the advice of the council on all matters where the council is authorized to communicate advice to the director.

(f) Impanel special committees of technically qualified persons to assist him and the council in the development of standards for courses and the evaluation of any course or school applying for recognition pursuant to subdivision (b) of Section 94310, Section 94312, and Section 94330. The special committees shall make such inspections and studies as may be necessary to enable them to advise the council and the superintendent in regard to action to be taken in any particular situation. Members of these special committees

shall not be connected in any way with a school which is the subject of inspection or investigation. The members of the special committees shall serve at no expense to the state.

(g) Publish, annually, for public distribution a directory of all institutions authorized to operate in this state under provisions of this chapter. The directory shall contain as a minimum, the names and addresses of such institutions together with a notation of the statute section or sections under which the institution has been authorized or approved.

(h) Negotiate and enter into interstate reciprocity agreements with similar agencies in other states if, in the judgment of the superintendent, such agreements are, or will be, helpful in effectuating the purposes of this chapter; except that nothing contained in any such reciprocity agreement shall be construed as limiting the superintendent's powers, duties, and responsibilities with respect to investigating or acting upon any application for issuance of or renewal of any agent's permit or with respect to the enforcement of any provision of this chapter or any of the rules or regulations promulgated under this chapter Such agreements shall not include institutions authorized to operate under subdivision (b) of Section 94311 nor be in conflict with agreements arranged by the state licensing boards authorized to negotiate such agreements through provisions of the Business and Professions Code.

(i) Receive, investigate, as he or she may deem necessary, and act upon applications for authorization or approval to operate educational institutions and applications for agent's permits.

(j) It is the intent of the Legislature that the superintendent develop, with the cooperation of the council, a program or procedure requiring institutions subject to the provisions of this section to provide evidence assuring the due and faithful performance of agreements or contracts with students and the refund of unearned tuition in the event the school ceases to exist or provide instruction.

(k) Request the Attorney General to bring actions pursuant to paragraph (2) of subdivision (a) of Section 94339 which the superintendent deems are necessary to enforce the provisions of this chapter.

94306. A corporation may be formed pursuant to this article for the purpose of establishing, conducting, and maintaining an educational institution offering courses of instruction beyond high school and issuing or conferring a diploma or degree. Such institutions shall include, but not be limited to, seminaries of learning, specialized educational institutions, community colleges, colleges, and universities, offering courses beyond high school.

94307. A corporation formed pursuant to this article shall comply with Chapter 1 (commencing with Section 300) of Part 2, Division 1, Title 1 of the Corporations Code, except that in lieu of the requirements of Sections 301 to 305, inclusive, the articles of incorporation shall state:

(a) The name of the corporation.

(b) The purpose for which it is organized.

(c) The county in this state where the principal office for the transaction of the business of the corporation is to be located.

(d) The names, residence address, and number of its directors at the time of its incorporation. Provision may be made that the number of directors may be established by the bylaws; provided, that the number of directors may not be less than five.

94308. (a) If a corporation formed pursuant to this article is to be authorized to issue shares of stock, the articles of incorporation shall state the total number of shares which the corporation shall have authority to issue and (1) the aggregate par value, of any, of all shares, and the par value of each of the shares, or (2) a statement that all the shares are to be without par value and except as herein provided shall be treated for all purposes as being incorporated pursuant to Division 1 (commencing with Section 300) of Title 1 of the Corporations Code.

(b) If a corporation formed pursuant to this article is to be authorized as a nonprofit corporation without authority to issue shares of stock, the articles of incorporation shall so state and except as herein provided, such corporation shall be treated for all purposes as being incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code and shall have the general powers granted by Section 18206 of the Corporations Code.

Article 2. Requirements and Standards

94310. No institution may issue, confer, or award an academic or honorary degree unless such institution meets the requirements of at least one of the three subdivisions of this section.

(a) The institution, which at the time of the issuance of a degree, has accreditation of the institution, program or specific course of study upon which the degree is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education, or by the Committee of Bar Examiners for the State of California. The institution must file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this subdivision may issue diplomas and certificates as well as degrees.

(b) The institution has been approved by the superintendent to award or issue specific degrees. The superintendent shall not approve an institution to issue degrees until it is determined, based upon information submitted to him or her, that the institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a

professional, technological, or educational objective, including, but not limited to, a degree; and the curriculum is consistent in quality with curricula offered by established institutions that issue the appropriate degree upon the satisfactory completion thereof. This shall include the determination that the course for which the degree is granted achieves its professed or claimed objective for higher education. The criteria developed hereunder shall be such as will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

Upon the receipt of a complete application, the superintendent shall, within 90 days, impanel a special committee for the purpose of evaluating the applicant institution. Within 90 days of the receipt of the special committee's recommendations, the superintendent shall take one of the following actions:

(1) Grant a full approval for a period not to exceed three years.

(2) Grant a conditional approval for a period not to exceed one year plus the remainder of the year in which the application was made.

(3) Disapprove the application. If the application is disapproved or a conditional approval is granted, the institution shall be advised of the specific reasons for such action and the specific corrective measures needed to achieve full approval.

Those institutions approved to issue degrees pursuant to this subdivision may also be authorized by the superintendent to issue diplomas for the completion of courses of study, within their approved degree program, but which do not fully meet the degree requirements. The superintendent may approve an application to issue honorary degrees, provided the applicant institution has full approval to issue academic degrees.

(c) The institution has filed the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1) of this subdivision, located within the State of California, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. Such assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be

accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale

(3) An annual affidavit by the president or other head setting forth, as a minimum, the following information:

(i) All names, whether real or fictitious, of the person, institution, firm, association, partnership or corporation under which it has done or is doing business

(ii) The address, including city and street, of every place of doing business of the person, firm, association, partnership or corporation, within the State of California.

(iii) The address, including city and street, of the location of the records of the person, firm, association, partnership or corporation, and the name and address, including city and street, of the custodian of such records

(iv) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership or corporation.

(v) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of such change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3) of this subdivision, and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by but not affiliated with the institution to be inspected Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate can be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take such steps as may be necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, Superintendent of Public Instruction, the State Board of Education, or the Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

94311 No postsecondary educational institution may offer courses

of education leading to educational, professional, technological, or vocational objectives unless such institution has been approved by the superintendent as meeting at least one of the following requirements:

(a) A hospital licensed under the provisions of Division 2, Chapter 2 (commencing with Section 1400) of the Health and Safety Code and issues diplomas only in connection with the operation of a hospital.

(b) An institution which is accredited, approved, or licensed by a state board or agency as a school and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it; provided, that this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled by the accrediting, approving, or licensing board or agency.

(c) An institution which at the time of the issuance of a diploma, has accreditation of the institution, program or specific course of study upon which the diploma is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education, and the administrative head of the institution has filed with the superintendent an annual affidavit verifying that the institution, program, or each course of study for which a diploma is issued is so accredited.

(d) An institution which has been approved by the superintendent as meeting the following minimum criteria:

(1) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of that particular course.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is given to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes. The superintendent may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's administrator, director, owner, and instructors are of good reputation and character.

(10) Application for such approval shall be made in writing on proper application forms. Pending final approval, the superintendent may issue a provisional approval upon submission of the complete application

Within 30 days following receipt of application, and prior to the issuance of either provisional or final approval, a representative of the superintendent shall personally inspect the school and verify the application. If the visitation does not occur within 30 days following receipt of the application, the institution will automatically receive a provisional approval. Within 30 days following visitation, either final approval, provisional approval, or denial of approval must be given to each application. If the superintendent does not act within 30 days following visitation, the application from the institution will automatically receive approval. If all information is in order, the superintendent may authorize provisional approval. A provisional approval shall not exceed a period of one year, subject to prior termination or conversion to annual approval. A provisional approval may not be extended.

94312. All institutions authorized, or approved, under this chapter shall be maintained and operated, or in the case of a new institution, must demonstrate that it shall be maintained and operated, in compliance with the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That the institution and its agents do not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(c) That the institution designates an agent for service of process within this state.

(d) That the institution has and maintains a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall be in compliance with the minimum standard of refunds as adopted by the superintendent. The superintendent shall take into consideration the length and character of the educational program in determining standards for refunds.

(e) That any written contract or agreement signed by a prospective student away from the institution premises will not become operative until the student makes an initial visit to the institution. The provision applies only in those situations when the student begins payment on tuition charges (beyond the registration fee) prior to arriving at the campus. The student is obligated to visit the campus at least six days prior to the start of classes. The school officials are obligated to provide the student with a thorough tour of the campus facilities and to place a written statement, signed by the student, in the student's file to verify that the visitation and campus

tour were provided. Following the visitation to the campus, the student will have a three-day "cooling off" period to void the contract with no money to be retained by the school as provided in subdivision (d) of this section. If the student does not visit the campus after signing the contract, the "cooling off" period will automatically begin six days prior to the start of classes. The student may waive the right to visit the campus at any time after signing the contract. This provision does not apply to correspondence schools or other mail study institutions. The superintendent shall take into consideration the character of the educational program in determining if other types of institutions should also be excluded from this provision.

(f) That any written contract or agreement for a course of study with an institution shall include on the first page of such agreement or contract, in 12-point boldface print or larger, the following statement:

"Any questions or problems concerning this institution which have not been satisfactorily answered or resolved by the institution should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 95814."

In addition, such written contracts or agreements shall specify, in underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters.

(g) That neither the institution nor its agents engage in sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(h) That the institution makes available to students and other interested persons a catalog or brochure containing information describing the courses offered, program objectives, length of program, faculty and their qualifications, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, the total cost of tuition over the entire period, and (for vocational training programs for which specific placement claims are made) placement data, as well as such other material facts concerning the institution and the program or course of instruction, as are reasonably likely to affect the decision of the student to enroll therein, as specified by the superintendent and defined in the rules and regulations; and that such information is made available to prospective students prior to enrollment

(i) That upon satisfactory completion of training, the student is given an appropriate degree or diploma by the institution, indicating that said course or courses of instruction or study have been satisfactorily completed by the student.

(j) That adequate records are maintained by the institution to

show attendance, progress, or grades, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(k) That the institution maintains current records for a period of not less than five years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the superintendent or the Attorney General of California showing the following:

(1) The names and addresses, both local and home, including city and street, of each of its students;

(2) The courses of study offered by the institution;

(3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each;

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

(*l*) Accreditation by a national or applicable regional accrediting agency recognized by the United States Office of Education or accreditation, approval, or licensure by a state board will be accepted by the superintendent as evidence of compliance with the minimum standards established by the accrediting or licensing agency, and therefore as evidence of compliance with the minimum standards specified in the provisions of this chapter. If there is substantial evidence of violation of the standards established by the responsible agency, however, the superintendent may require such further evidence and make such further investigation as may be necessary.

Article 3. Prohibited Activities

94320. No institution, or representative of such institution, shall:

(a) Operate in this state a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this chapter.

(b) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from the provisions of this chapter, whether such institution is within or outside this state, unless such agent is a natural person and has a currently valid agent's permit issued pursuant to the provisions of this chapter, nor accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter; provided, however, that the superintendent may promulgate rules and regulations to permit the rendering of legitimate public information services without such permit

(c) Instruct or educate, or offer to instruct or educate, including soliciting for such purposes, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to

perform any such act, in this state, whether such person, agent, group, or entity is located within or without this state, unless such person, agent, group, or entity observes and is in compliance with the minimum standards set forth in Section 94312, the criteria established by the superintendent and reviewed by the council pursuant to paragraph (4) of subdivision (f) of Section 94304, and the rules and regulations adopted by the superintendent pursuant to subdivision (b) of Section 94305.

(d) Sell, barter, offer to sell or barter, or conspire to sell or barter, any diploma or degree as defined in this chapter

(e) Buy, obtain by barter, attempt to buy or obtain by barter, or conspire to obtain by barter or buy, any diploma or degree as defined in this chapter.

(f) Use in connection with any business, trade, profession, or occupation, or attempt to use in connection with any business, trade, profession or occupation, or conspire to use in connection with any business, trade, profession or occupation, any degree, diploma, certificate, transcript, or document, as defined in this chapter, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(g) Use in connection with a business, trade, profession, or occupation, or give or receive, any degree, diploma, certificate, transcript or document, as defined in this chapter, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(h) Attempt to use in connection with a business, trade, profession, or occupation, or attempt to give or receive, any degree, diploma, certificate, transcript or document, as defined in this chapter, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(i) Conspire to use in connection with a business, trade, profession, or occupation, or conspire to give or receive, any diploma or degree evidencing the undertaking or completion of any course of study or scholastic achievement attained if, in fact, said course of study has not been undertaken nor completed or if such scholastic achievement has not been attained

(j) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

94321. No institution, or representative of such institution, shall:

(a) Make, or cause to be made, any statement, or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if such person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate, or misleading.

(b) Promise or guarantee employment

(c) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading

(d) Advertise, or indicate in any promotional material, that

correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or courses of study are offered by correspondence or home study.

(e) Advertise, or indicate in any promotional material, that resident instruction, or courses of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(f) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising which fails to identify the school or institution.

Nothing contained in this section shall prohibit a private school and a bona fide employer from jointly advertising in "help wanted" columns of a magazine, newspaper, or other publication if they meet all of the conditions established by the superintendent for such advertising.

Any institution willfully violating any provisions of this section shall be unable to enforce any contract or agreement arising from the transaction in which the violation occurred, and it may be one of the grounds for losing the authorization to operate in this state. In addition, in the event of such violation, the institution shall refund to the student any tuition or fees that have been collected from the student. The student shall be awarded, in addition to the foregoing, any damages sustained, and may be awarded treble damages, in the discretion of the court

The judgment rendered in any action maintained for the recovery of fees or damages sustained in accordance with the terms of this section or the judgment rendered in any action defended by a student, shall, if the student is the prevailing party, include court costs, including a reasonable attorney's fee fixed by the court.

The provisions of this section shall supplement and not displace the authority granted the Division of Labor Law Enforcement under Section 1650 of the Labor Code to the extent that placement activities of trade schools are subject to regulation by the division under Section 1649 of the Labor Code.

Article 4. Applications, Authorizations, Fees, and Protections

94330. (a) Each institution desiring to operate in this state shall make application to the superintendent, upon forms to be provided by the superintendent. The application shall include, as a minimum, at least the following:

(1) A catalog published or proposed to be published by the institution containing the information specified in the criteria promulgated by the superintendent. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) The name and California address of a designated agent upon whom any process, notice or demand may be served

(b) Each application shall be signed and certified to under oath by the principal owners of the school (those who own at least 10 percent of the stock)

(c) Following review of such application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and such investigation of the applicant as the superintendent may deem necessary or appropriate, the superintendent shall either grant or deny authorization to operate to the applicant

The provision of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

(d) The term for which authorization is given shall not extend for more than three years, and may be issued for a lesser period of time

(e) The authorization to operate shall be issued to the owner, or governing body, of the applicant institution, and shall be nontransferable In the event of a contemplated shift in control, or a change in ownership of the institution, a new owner, or governing body, must at least 20 days prior to the shift in control or change in ownership, apply for a new authorization to operate, and in the event of failure to do so, the institution's authorization to operate shall terminate. Application for a new authorization to operate by reason of a shift in control or a change in ownership of the institution shall be deemed an application for renewal of the institution's authorization to operate The shift in control, or change in ownership of the institution may not be made until the application is approved. "Ownership," for purposes of this section, shall be deemed to mean ownership of a controlling interest in the institution, or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling such institution.

(f) At least 60 days prior to the expiration of an authorization to operate, the institution shall complete and file with the superintendent an application form for renewal of its authorization to operate Said renewal application shall be reviewed and acted upon as provided hereinabove

(g) An institution not yet in operation when its application for authorization to operate is filed may not begin operation and enroll students until receipt of authorization An institution in operation, when its application for authorization to operate is filed, may continue operation until its application is acted upon by the superintendent

94331. The superintendent shall charge commencing with the

current fiscal year of the effective date of the act that added this chapter, the fees listed herein for the approval of private institutions operating under this chapter. For ensuing fiscal years, the superintendent may annually increase or decrease such fees by an amount which reflects an increase or decrease in the Consumer Price Index, all items of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The superintendent shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For approval to issue degrees pursuant to subdivision (b) of Section 94310:

(1) Five hundred dollars ($500) for an original application.

(2) One hundred fifty dollars ($150) annually during the duration of the approval period renewal of such application.

(3) One hundred dollars ($100) for any of the following: approval to grant additional degrees, for change of location, or auxiliary facilities in a new location.

(4) One hundred fifty dollars ($150) for change of ownership.

(b) For filing original affidavits as required to issue degrees pursuant to subdivision (c) of Section 94310:

(1) Three hundred dollars ($300) for initial applications.

(2) One hundred fifty dollars ($150) annually during the duration of the authorization period for renewal of such application.

(3) One hundred fifty dollars ($150) for change of ownership.

(c) For approval to issue diplomas or offer courses of study pursuant to subdivision (c) of Section 94311, the original application shall be accompanied by a three hundred dollar ($300) fee. Applications filed annually thereafter shall each be accompanied by one hundred fifty dollars ($150).

(d) For approval to issue diplomas or offer courses of study pursuant to subdivision (d) of Section 94311:

(1) Three hundred dollars ($300) for an original application.

(2) One hundred fifty dollars ($150) for a renewal of a temporary approval or annual approval.

(3) One hundred dollars ($100) for approval of any of the following: change of location, major change or revisions in curriculum or course, auxiliary facilities in a new location, or additional courses of study.

(4) One hundred fifty dollars ($150) for change of ownership.

(5) Eight dollars ($8) for each evaluation and approval of directors, administrators, and instructors subsequent to the original application.

(e) For approval of an applicant to solicit or sell courses of study pursuant to Section 94333, the original application shall be accompanied by a twenty dollar ($20) fee. Each applicant shall pay

an annual renewal fee of fifteen dollars ($15). Application for additional sales permits shall be accompanied by a fifteen dollar ($15) fee.

94332. (1) Any person claiming damage or loss as a result of any act or practice by a postsecondary educational institution or its agent, or both, which is a violation of this chapter or of the rules and regulations promulgated hereunder, may file with the superintendent a verified complaint against such institution or against its agent, or both. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the superintendent.

(2) The superintendent shall investigate any such complaint and may, at his or her discretion, attempt to effectuate a settlement by persuasion and conciliation The superintendent may consider a complaint after 10 days' written notice by registered mail, return receipt requested, to such institution or to such agent, or both, as appropriate.

(3) If, upon all the evidence at a hearing, the superintendent shall find that an institution or its agent, or both, has engaged in or is engaging in, any act or practice which violates the provisions of this chapter or the rules and regulations promulgated hereunder, the superintendent shall report such evidence to the Attorney General. The superintendent may also, as appropriate, based on its own investigation or the evidence adduced at such hearing, or both, commence an action to revoke an institution's authorization to operate or an agent's permit.

94333. (a) No person, either on his or her own behalf or as the representative of any institution located within or outside the State of California, shall, by personal contact with any person in California at a place away from the instructional site or the main premises of the institution, sell enrollment in any course of study leading to an educational, technological, professional or vocational objective for remuneration or other consideration unless he or she holds a valid permit to engage in such activity issued by the superintendent. Administrators or faculty, or both, who make informational public appearances, but whose primary task is not to serve as a paid recruiter, are exempted from this section.

The application for such a permit shall be furnished by the superintendent and shall include the following:

(1) A statement signed by the applicant that he or she has read the provisions of this chapter and the rules and regulations promulgated pursuant thereto.

(2) A surety bond making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought and may extend to cover individuals separately or to

provide blanket coverage for all persons to be engaged as representatives of the institution. Such bond shall provide for liability in the penal sum of one thousand dollars ($1,000) for each agent to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the superintendent.

(3) A fee as required by Section 94331.

(b) An agent representing more than one institution must obtain a separate agent's permit for each institution represented; provided, that when an agent represents institutions having a common ownership, only one agent's permit shall be required with respect to said institutions. In the event any institution which the applicant intends to represent does not have authorization to operate in this state, said application shall be accompanied by the information required of institutions making application for such authorization.

(c) No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

(d) A permit shall be valid for the calendar year in which it is issued, unless sooner revoked or suspended by the superintendent for fraud or misrepresentation in connection with the solicitation for the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he or she represents which, if in existence at the time the permit was issued, would have been grounds for denial of the permit.

(e) The permittee shall carry the permit with him or her for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school.

(f) A temporary permit shall be issued when a complete application is filed. The temporary permit will automatically expire when the applicant is notified of the superintendent's decision to issue or deny a regular permit. Notification is complete when the applicant learns of the superintendent's decision or three days after notice of the decision is mailed to the applicant's address stated in the application, whichever occurs first. The superintendent may deny or terminate any temporary permit at any time upon receipt of any information for which a regular permit might be denied. Such termination is effective when the applicant is notified as stated above.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study away from the premises of the school shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

The issuance of a permit pursuant to this section shall not be

interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever, that the superintendent has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent, by any means whatever, that the issuance of the permit constitutes an assurance by the superintendent that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

94335. (a) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any institution within or outside this state governed by the provisions of this chapter unless at the time of execution of such note, other instrument of indebtedness, or contract, said institution has a valid authorization pursuant to the provisions of this chapter.

(b) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any institution within or outside this state governed by the provisions of this chapter unless such agent, who enrolled persons to whom educational services were to be rendered or to whom degrees or diplomas were to be granted pursuant to the provisions of this chapter, held a valid agent's permit at the time of execution of the note, other instrument or indebtedness, or contract.

(c) Any school or institution governed by the provisions of this chapter extending credit or lending money to any person for tuition, fees, or any charges whatever for educational services to be rendered or furnished shall cause any note, instrument, or other evidence of indebtedness taken in connection with such loan or extension of such credit to be conspicuously marked on the face thereof with the following notice:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

In the event such school or institution fails to do so, it shall be liable for any damage or loss suffered or incurred by any subsequent assignee, transferee, or holder of such evidence of indebtedness on

account of the absence of such notification.

(d) Notwithstanding the presence or absence of such notification and notwithstanding any agreement wherein the student waives the right to assert any claim or defense, the school or institution making such loan or extending such credit and the transferee, assignee, or holder of such evidence of indebtedness, shall be subject to all defenses and claims which could be asserted against the school or institution which was to render or furnish such educational services by any party to such evidence of indebtedness or by the person to whom such educational services were to be rendered or furnished up to the amount remaining to be paid thereon.

94336. Any person, firm, association, partnership, or corporation willfully violating any provisions of subdivisions (d), (e), (f), (g), (h), (i), and (j) of Section 94320 is guilty of a felony and is punishable by imprisonment in the state prison not exceeding five years, or by a fine of not less than one thousand dollars ($1,000) or by both such fine and imprisonment.

Any person, firm, association, partnership, or corporation which willfully violates any other provision of this article, is punishable, for a first offense, by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding five hundred dollars ($500), or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison, or by a fine not less than one thousand dollars ($1,000) or by both such fine and imprisonment.

94337. Any institution authorized to operate prior to the effective date of the act that added this chapter shall retain such authorization until January 1, 1979, without authorization or approval of the superintendent unless:

(a) Such authorization or approval is revoked by the superintendent or suspended by operation of law pursuant to the provisions of this section.

(b) Such authorization or approval expires and is subject to renewal.

(c) The institution ceases to exist or provide instruction.

After January 1, 1979, all institutions must either be authorized or approved by the superintendent in conformity with this chapter.

94338. Any institution authorized by the superintendent pursuant to the provisions of this chapter may contract with any school district, county superintendent, community college district, or the governing body of an agency maintaining a regional occupational center or program, subject to Section 8092.

94339. (a) The Attorney General:

(1) May make such investigations as may be necessary to carry out the provisions of this chapter, including, but not limited to, investigations of complaints which are under review by the council pursuant to paragraph (6) of subdivision (f) of Section 94304;

(2) And the superintendent may, jointly, bring such actions as may be necessary to enforce the provisions of this chapter, including,

but not limited to, civil actions for injunctive relief In actions brought pursuant to this paragraph, the superintendent shall be represented by the Attorney General.

(b) The Attorney General shall represent the superintendent in any administrative proceedings arising under this chapter.

(c) Nothing in this section or this chapter shall be deemed to preclude the Attorney General from:

(1) Bringing any actions on behalf of the people as he is empowered by law to bring, including, but not limited to, actions based upon alleged violations of Section 17500 of the Business and Professions Code or Section 3369 of the Civil Code;

(2) Conducting such investigations as may be necessary to determine whether there have been violations of the provisions of law specified in paragraph (1) of this subdivision;

(3) Conducting any such investigations as he is authorized by law to conduct including, but not limited to, investigations authorized pursuant to Section 11180 of the Government Code.

94341. If any section, subdivision, paragraph, subsection, sentence, clause, or phrase of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this chapter, and each section, subdivision, paragraph, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subdivisions, paragraphs, subsections, sentences, clauses, or phrases are declared to be unconstitutional.

Article 5. Termination

94350. The provisions of this chapter shall remain in effect only until July 1, 1982, and as of that date are repealed.

SEC. 3. Within three years following the effective date of this act, the Legislative Budget Committee, in cooperation with the California Postsecondary Education Commission, shall review and evaluate the implementation of the provisions of this act by the Department of Education, and shall report to the Legislature the results of this review and evaluation.

CHAPTER 1203

An act making an appropriation for property tax relief, and in this connection augmenting Item 81 of the Budget Act of 1975 (Ch. 176, Stats. 1975), Item 91 of the Budget Act of 1976 (Ch. 320, Stats. 1976), and Item 369 of the Budget Act of 1977 (Ch. 219, Stats. 1977), and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund, to be allocated as follows:

(a) Five hundred thousand dollars ($500,000), in augmentation of Item 81 of the Budget Act of 1975 (Ch. 176, Stats. 1975), and one million dollars ($1,000,000), in augmentation of Item 91 of the Budget Act of 1976 (Ch. 320, Stats. 1976), to the State Controller for reimbursement, in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, of local taxing authorities, for revenue lost by reason of the assessment of open-space lands pursuant to Sections 423 and 423.5 of the Revenue and Taxation Code, notwithstanding the limitations of Section 16153 of the Government Code and the prohibitions against augmentation set forth in such Items 81 and 91.

(b) One million five hundred thousand dollars ($1,500,000), in augmentation of Item 369 of the Budget Act of 1977 (Ch. 219, Stats. 1977), to the Franchise Tax Board for the purpose of providing property tax assistance to owner-claimants in accordance with Part 10.5 (commencing with Section 19501) of Division 2 of the Revenue and Taxation Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that deficiencies in appropriations made in the 1975–76, 1976–77, and 1977–78 fiscal years may be promptly rectified, it is necessary that this act take effect immediately.

CHAPTER 1204

An act to add Section 66517.5 to the Government Code, to amend Sections 29140, 29141, and 29142 of, and to add Sections 29142.2, 29142.4, 29142.6, and 29142.8 to, the Public Utilities Code, and to amend Section 30778 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. It is the intent of the Legislature to emphasize the financial crisis that faces the San Francisco Bay Area Rapid Transit District, the San Francisco Municipal Railway, and the

Alameda-Contra Costa Transit District and that all funds resulting from the imposition of the one-half of 1 percent transactions and use tax beyond January 1, 1978, be used in a fiscally responsible manner with the primary objective of achieving financial stability of these public transit operators

It is further the intent of the Legislature that these operators fulfill their primary responsibility and mandate of providing safe, on-time, and reliable service, that fare revenues be stabilized at a constant percentage of total operating costs, and that the operators take appropriate steps to improve the efficiency and effectiveness of the service provided.

It is further the intent of the Legislature that the operators take appropriate steps to control costs and that annual increases in controllable operating costs not exceed the concurrent increases in the cost of living, as reflected in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

SEC. 2. Section 66517.5 is added to the Government Code, to read.

66517.5. The commission shall develop regional transit service objectives, develop performance measures of efficiency and effectiveness, specify uniform data requirements to assess public transit service benefits and costs, and formulate procedures for establishing regional transportation priorities in the allocation of funds for transportation purposes.

The commission shall also establish and maintain standards relating to:

(a) A standardized reporting and accounting system under which public transit operators shall make quarterly reports to the commission on their revenues and expenditures and submit their annual proposed and adopted budgets for comment and evaluation The system shall be consistent with the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243 of the Public Utilities Code.

(b) Maintenance of established levels of local support for public transit system operations.

(c) Operating efficiency and cost control.

SEC. 3. Section 29140 of the Public Utilities Code is amended to read:

29140. The board shall, by ordinance, impose transactions and use taxes in conformity with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code for the purposes specified in Sections 29142 and 29142.2, subject to periodic legislative review and amendment.

SEC. 3.5. Section 29141 of the Public Utilities Code is amended to read:

29141. Any transactions and use taxes ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this article, or January 1, 1970, whichever is later

Prior to the operative date of the ordinance, the district shall

contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

If the district shall not have contracted with the State Board of Equalization prior to the operative date of its ordinance, it shall nevertheless so contract and in such case the operative date shall be the first day of the first calendar quarter following the execution of the contract.

The contract entered into by the district with the State Board of Equalization prior to January 1, 1978, for the administration and operation of the transactions and use tax ordinance shall be amended to provide for the allocation of the transactions and use tax revenues pursuant to Section 29142.2.

SEC. 4. Section 29142 of the Public Utilities Code is amended to read:

29142. (a) Revenues derived from the transactions and use taxes, not to exceed an aggregate principal amount of one hundred fifty million dollars ($150,000,000), plus the costs payable by the district to the State Board of Equalization for preparatory costs and for its services in connection with such taxes and plus the costs of issuance of, and interest payments on, bonds or notes secured by such revenues, shall be used for the planning, acquiring, and constructing of the district's approximately 75-mile system, including the San Francisco-Oakland Rapid Transit Tube and any and all works, structures, property, rolling stock, or other facilities of any kind which the district is authorized to acquire, construct, or complete.

(b) Revenues in excess of the amount specified in subdivision (a) shall be used for purposes specified in Section 29142.2, operational purposes, the liquidation of operational deficits, and the payment of principal and interest on negotiable bonds issued pursuant to subdivision (c).

(c) To finance the operation of its rapid transit system during the 1974–75 fiscal year, the district may issue negotiable bonds in an amount not to exceed sixteen million dollars ($16,000,000) in anticipation of the revenues specified in subdivision (b). However, upon a determination by the board that the issuance of sixteen million dollars ($16,000,000) in negotiable bonds, together with other funds available to the district, provide insufficient funds for the operation of the district during the 1975–76 fiscal year, the district may issue additional negotiable bonds in an amount not exceeding eight million dollars ($8,000,000). The district may also issue additional negotiable bonds in an amount not exceeding one million three hundred thousand dollars ($1,300,000) if the board determines that otherwise insufficient funds are available to the district for its operation during the 1976–77 fiscal year. The district shall pay the principal and interest on such bonds only from such revenues. Interest on such bonds may be funded, and paid from the proceeds of such bonds, for period of not to exceed two years from the date of such bonds. The board, by resolution shall determine the form,

denomination, maturities, interest rates, and all other terms and conditions relative to the issuance of such negotiable bonds.

SEC 5 Section 29142.2 is added to the Public Utilities Code, to read:

29142.2. Except as otherwise provided in Section 29142.4 and notwithstanding Section 7271 of the Revenue and Taxation Code, after deduction for the cost of the State Board of Equalization in administering the transactions and use tax, the amounts available for distribution on or before March 31, 1978, with respect to the tax imposed prior to January 1, 1978, shall be allocated to the San Francisco Bay Area Rapid Transit District. All other amounts collected under the ordinance adopted pursuant to Section 29140 and available for distribution shall be allocated as follows:

(a) Seventy-five percent to the San Francisco Bay Area Rapid Transit District

(b) Twenty-five percent shall be allocated by the Metropolitan Transportation Commission to the San Francisco Bay Area Rapid Transit District, the City and County of San Francisco for its municipal railway system, and the Alameda-Contra Costa Transit District for improvements in the level of transit services beyond that provided on or before January 1, 1978, on the basis of regional priorities established by the commission following technical analyses and evaluation of existing transit services and proposed improvements thereof.

SEC. 6. Section 29142.4 is added to the Public Utilities Code, to read:

29142.4. No funds shall be allocated to an entity pursuant to Section 29142.2, after January 1, 1978, unless, as determined by the Metropolitan Transportation Commission, the transit operator:

(a) Is a participating member of a transit operator coordinating council which the commission shall establish to better coordinate routes, schedules, fares, and transfers among the San Francisco Bay area transit operators and to explore potential advantages of joint ventures in areas such as marketing, maintenance, and purchasing. The commission shall be a member of the council.

(b) Establishes fare levels such that fare revenues equal at least 33 percent of its operating cost, which shall be all of its costs in the expense object classes, exclusive of the costs of the depreciation and amortization expense object classes, of the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243. For purposes of this subdivision, the two special transit service districts of the Alameda-Contra Costa Transit District shall be considered separate transit districts.

This subdivision shall not be construed to require an operator to increase the special fares for students and those established for the elderly and handicapped pursuant to federal rules and regulations. However, these special fares shall not affect the requirement that the fare revenues of the operator equal at least 33 percent of its operating cost.

(c) Has complied with standards established by the commission pursuant to Section 66517.5 of the Government Code.

SEC. 7. Section 29142.6 is added to the Public Utilities Code, to read:

29142.6. Upon determination by the Metropolitan Transportation Commission that an operator has met the conditions specified in Section 29142.4, the commission shall notify the State Board of Equalization of the percentage of the transaction and use taxes to be allocated to the operator. Upon such notification, the State Board of Equalization shall transmit to the operator, as promptly as feasible, its share of the transaction and use taxes.

SEC. 7.5. Section 29142.8 is added to the Public Utilities Code, to read:

29142.8. Any portion of the transactions and use tax revenues available for allocation and not allocated by the Metropolitan Transportation Commission shall be invested through the Surplus Money Investment Fund. The amount invested and the accrued interest therefrom shall be available for allocation by the commission.

SEC. 8. Section 30778 of the Streets and Highways Code is amended to read:

30778. (a) The annual tolls and revenues of the San Francisco-Oakland Bay Bridge or so much thereof as may be necessary after provision for the payment in full of all annual costs of operation, insurance, and other expenses of the San Francisco-Oakland Bay Bridge, and after payment or provision for payment in full of all the costs of revisions, improvements, and alterations referred to in and subject to the limitations of Section 30609, and all of the costs of any project involving the San Mateo-Hayward Bridge, shall be pledged and used to finance and pay for the cost of construction of the rapid transit tube, the construction of additional highway crossings across San Francisco Bay as hereinafter provided, and for such other purposes as may be authorized by law, including, but not limited to, payment of the principal of, and interest and premiums, if any, on, and provision for security of, the revenue bonds of the authority issued pursuant to this article and the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000)).

(b) Bonds for the construction of the rapid transit tube and additional highway crossings across San Francisco Bay may be authorized and issued as a single issue under a single authorization of the authority, provided that provision is made for the segregation of the funds derived from the proceeds of such bonds so as to ensure: (1) first the deposit in appropriate funds of the amount hereinabove provided to be applied to the construction of the rapid transit tube and (2) the deposit of the remaining funds to the construction of the additional highway crossings across San Francisco Bay. Any surplus of the funds segregated for construction of the rapid transit tube, as provided herein, shall upon completion of the tube and provision for

payment of all costs thereof, subject to the limitation provided in Section 30775, be available for expenditure for the additional highway crossings across San Francisco Bay. In the event the authority shall be authorized to refund any and all bonds issued for the construction of other toll bridges or toll highway crossings of San Francisco Bay and the rivers and streams tributary thereto in the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma and the City and County of San Francisco, then and in that event the authority is authorized to issue all of the bonds to be issued for the construction of the rapid transit tube, the additional highway crossings over San Francisco Bay and such refunding bonds in a single authorization, and to pledge to the payment of the principal of and interest on all of such bonds and any provisions for the further security thereof including reserve fund or sinking fund payments or otherwise all of the revenues of all of the bridges of San Francisco Bay and the rivers and streams tributary thereto, including the San Francisco-Oakland Bay Bridge, the San Mateo-Hayward Bridge, the Dumbarton Bridge, the Carquinez Strait Bridges, the Benicia-Martinez Bridge, and the Richmond-San Rafael Bridge, or any thereof as may be determined by the authority, together with revenues of the additional crossings to be constructed across San Francisco Bay.

SEC. 9. The Metropolitan Transportation Commission shall submit to the Legislature, by February 15, 1978, a report regarding its compliance with Section 66517.5 of the Government Code and with Section 29142.4 of the Public Utilities Code. The commission shall also submit to the Legislature an interim report not later than October 1, 1978, and a final report not later than October 1, 1979, which reports shall include the amount of the allocations made pursuant to Section 29142.2 of the Public Utilities Code by the commission up to the date of the submittal of the report and shall state the justification and basis for the allocations. In addition, the commission shall submit quarterly reports as to action taken by the commission with respect to this act during each quarter prior to submittal of the interim and final reports.

The Legislative Analyst shall submit a report to the Legislature, by October 1, 1979, regarding the implementation of this act and shall include recommendations as to the most appropriate form of continuous legislative oversight of the commission and of the operations of the entities receiving funds pursuant to Section 29142.2 of the Public Utilities Code.

The reports shall be presented in sufficient detail to support any recommended legislation.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section, nor shall there be an appropriation made by this act, because there are savings which, in the aggregate, do not result in additional net costs.

CHAPTER 1205

An act to amend Sections 5006, 5007, 5008, 5010, 5012, 5016, 5029, 5032, 5226, 5326, 5342, 5344, 5401, 5440, 5441, 15101, 15121, 16062, 18517, 19606, 19700, 24903, 42206, 42207, and 85117 of the Education Code, to amend Sections 56, 402, 1642, 5353, 6401, 6490.2, 6554, 6830, 6831.1, 6832, 6833, 6835, 6838, 6863, 6920, 8710, 10203, 10204, 10208, 10217, 10220, 10221, 10222, 10228, 10335, 10338, 17023, 17101, 17140, 17142, 17143, 17144, 17147, 17148, 17150, 20051, 22830, 22837, 22840, 22841, 22930, 22942.5, 23306, 23512.2, 23512.4, 23512.8, 23527.5, 23540.5, 23550, 23557.5, 25100, and 29640 of, to amend the heading of Chapter 1 (commencing with Section 6000) of Division 6 of, to amend and renumber Section 23521 of, to add Sections 57.5, 75, 8660, and 8660.5 to, to add Chapter 1.5 (commencing with Section 2520) to Division 4 of, to add Section 20002 to, and to repeal and add Article 1 (commencing with Section 8660) to Chapter 3 of Part 2 of Division 6 of, the Elections Code, to amend Sections 1780, 34460, 34902, 36512, 36512.1, and 36512.2 of, to amend and renumber Section 12172 of, to add Section 23365 to, and to repeal Sections 275, 23365, and 23366 of, the Government Code, and to repeal Section 4 of Chapter 1119 of the Statutes of 1975, relating to elections.

[Approved by Governor September 30, 1977. Filed with Secretary of State October 1, 1977.]

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

SECTION 1. Section 5006 of the Education Code is amended to read:

5006. When an elementary, unified, high school, community college district or community college district trustee area, includes within its boundaries the same territory, or territory that is in part the same, as a city whose charter requires a regular city election to be held in each odd-numbered year, the consolidated governing board member elections of the elementary, unified, high school, community college district or community college district trustee area may be held on a Tuesday in the odd-numbered year and may be further consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the elementary, unified, high school or community college district upon the written request of the governing board of the elementary, unified, high school or community college district, with the written consent of the legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member elections are affected. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

When a high school district, community college district, or community college trustee area election is consolidated with that of a city pursuant to this section, or when a high school district, community college district, or community college trustee area is governed by the charter of a city providing for elections on dates other than those specified in this code, and, in either case, such high school district, community college district, or community college trustee area also has within its boundaries component districts whose elections would otherwise be held on the date specified in this code, then the elections in the component districts may be consolidated with the election in the high school district, community college district, or community college trustee area. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the component districts upon the written request of the governing boards thereof and with the written consent of the governing boards of the districts whose governing board member elections are to be consolidated with those of the component districts.

SEC 2. Section 5007 of the Education Code is amended to read.

5007 When an elementary, unified, high school, community college district includes within its boundaries the same territory, or territory that is in part the same, as a city which holds a city election on the first Tuesday after the first Monday in March in each even-numbered year, the consolidated governing board member elections of the elementary, unified, high school, or community college district, may, at the discretion of the county superintendent of schools, be held on the first Tuesday after the first Monday in March in the even-numbered year and may be further consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the elementary, unified, high school, or community college district upon the written request of the governing board of the elementary, unified, high school, or community college district, with the written consent of the legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member elections are affected. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of such incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he shall hold office until a successor qualifies therefor, but in no event shall the term of an incumbent be extended to exceed four years.

SEC. 3. Section 5008 of the Education Code is amended to read:

5008. (a) Notwithstanding any other provision of law, upon the recommendation of the county superintendent of schools and with the approval of the county board of supervisors, the election of governing board members of school districts whose boundaries are coterminous with the boundaries of the county, shall be consolidated with the November general elections held in the county pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

In such case, the terms of members of the governing board elected in the general election pursuant to this section shall begin at noon on the first Monday after the first day in January following such general election and shall end at noon on the first Monday after the first day in January four years thereafter.

In such case, the terms of members of the governing board expiring on March 31 of any odd-numbered year next succeeding any general election, shall expire at noon on the first Monday after the first day in January following such general election.

(b) When the term of an incumbent expires at midnight March 31 of an odd-numbered year and no successor has been elected because of the provisions of subdivision (a) of this section, the members of the board whose terms have not expired shall appoint a successor to serve until a successor is elected and qualified pursuant to subdivision (a) of this section.

SEC. 4. Section 5010 of the Education Code is amended to read:

5010. When a community college district or community college district trustee area includes within its boundaries the same territory, or territory that is in part the same, as a chartered city which holds a city election on a date other than one of the regular election dates established by Division 4 (commencing with Section 2500) of the Elections Code for the conduct of city elections in odd-numbered years, the governing board member elections of the community college district or community college district trustee area may be consolidated with the city election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the community college district upon the written request of the governing board of the community college district, with the written consent of the legislative body of the city. The provisions of this section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of such incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he shall hold office until a successor qualifies therefor, but in no event shall the term of an incumbent be extended to exceed four years.

SEC. 5 Section 5012 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is amended to read:

5012. In any school district or community college district governing board election the name of any registered voter shall be placed on the ballot if there is filed with the county clerk having jurisdiction not more than 89 days nor less than 68 days prior to the election a declaration of candidacy substantially in the form set forth in subdivision (a) of Section 5032, containing the appropriate information in the blank spaces and signed by the registered voter whose name is thereby to be placed on the ballot.

No candidate whose declaration of candidacy has been filed for any school district or community college district governing board election or county board of education election may withdraw as a candidate after the 75th day prior to the election.

Notwithstanding any other provision of law, no person shall file nomination papers for more than one district office, including a county board of education office, at the same election

SEC 6. Section 5016 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is amended to read:

5016 (a) If a tie vote makes it impossible to determine either which of two or more candidates has been elected to the governing board or the term of office of a governing board member, the county superintendent of schools having jurisdiction shall so certify to the governing board

(b) The governing board may either call a runoff election or determine the winner or winners by lot. Prior to conducting any school board election on or after March 1, 1977, the governing board of each school district shall establish which of such procedures is to be employed by the district in the event of a tie vote.

(c) If the governing board decides to determine the winner by lot, the governing board shall forthwith notify the candidates who have received the tie votes to appear before it either personally or by a representative at a time and place designated by the governing board. The governing board shall at that time and place determine the winner or winners by lot

(d) If the governing board decides to call a runoff election, it shall call a runoff election to be held in the district on the sixth Tuesday following the election at which the tie vote occurred. Only the candidates receiving the tie votes shall appear on the ballots. Any member of the governing board who will be succeeded by a winner of the runoff election and whose term would expire before the winner of the runoff election would be determined shall continue to discharge the duties of his office until his successor has qualified. The runoff election shall be called and conducted substantially in the manner provided in Chapter 3 (commencing with Section 5300) of this part, provided, that the governing board shall determine the adjustments of the time requirements prescribed therein which would be necessary in order to conduct the runoff election.

SEC. 7. Section 5029 of the Education Code is amended to read:

5029 Notwithstanding any provision of Section 5028, when a community college trustee ward boundary line falls upon an election precinct boundary line, and such election precinct boundary line is changed pursuant to Chapter 1 (commencing with Section 1500) of Division 3 of the Elections Code, the governing board of the district shall, at least 90 days prior to any trustee election, change such ward boundary line to conform to precinct boundary lines, where possible.

SEC. 8. Section 5032 of the Education Code is amended to read:

5032. The forms for declaration of candidacy and notice to declare candidacy for governing board election prescribed in this article are as provided in this section.

(a) The declaration of candidacy shall be in substantially the following form:

"I, _____, do hereby declare myself as a candidate for election to the governing board of _____ district, of the County of _____; I am a registered voter; if elected I will qualify and serve to the best of my ability; and I request my name be placed on the official ballots of the district, for the election to be held on the _____ day of _____, 19__.

_____

Residence address: _____"

In an election held under Section 5018 to elect additional governing board members all candidates for member of the governing board shall also indicate on their declaration of candidacy whether they are candidates for the existing office or for the new offices.

(b) Notices to declare candidacy for governing board elections shall be in substantially the following form:

"NOTICE TO DECLARE CANDIDACY FOR
GOVERNING BOARD MEMBER ELECTION

"Notice is hereby given to all qualified persons that an election will be held in the _____ District, County of _____, State of California, on the _____ day of _____, 19__, for the purpose of electing _____ members to the governing board of the school district.

"Forms for declaring candidacy and for the nomination of candidates for the election are available from the office of the County Clerk or County Registrar of Voters at _____ (giving address at which forms may be obtained), California.

"Declarations of candidacy must be filed with the County Clerk or County Registrar of Voters at the above address not later than the _____ day of _____ 19__."

SEC. 10. Section 5226 of the Education Code is amended to read:

5226. Elections of members of city boards of education, primary, general, or recall, may be consolidated with municipal elections, primary, general, or special, in accordance with the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14

of the Elections Code. In event of consolidation, the cost and expense of the election shall be apportioned between the city and districts, elementary, high school, or community college, as provided in Section 5227.

SEC. 11. Section 5326 of the Education Code is amended to read:

5326. If, immediately following the last time for filing pursuant to Section 5012 of the Education Code, only one person has been nominated for each position of governing board member to be filled at that election or no person has been nominated for any such position, and a petition signed by 25 voters of the district indicating that a write-in campaign will be conducted has not been presented to the officer conducting the election by the 50th day prior to the election, an election shall not be held.

For purposes of this section it shall be deemed that there is only one candidate for each position of governing board member to be filled when there is more than one such position to be filled from a list of candidates for all such positions collectively and the number of candidates does not exceed the number of positions to be filled; to the extent that the number of such positions exceeds the number of candidates therefor, it shall be deemed that no person has been nominated.

The provisions of this section shall apply to elections for membership on the county board of education.

For purposes of this section and Sections 5327, 5328, and 5329, "nominated" or "nomination" includes becoming a candidate by a declaration of candidacy.

SEC. 12. Section 5342 of the Education Code is amended to read:

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county or other political subdivision, the district election may be either completely or partially consolidated with such election or elections pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

Such consolidation shall be effected by the county superintendent of schools having jurisdiction of the district upon receipt of both of the following:

(a) Written request for such consolidation by the governing board of the school district in which the election is to be held, which request must be submitted to the county superintendent of schools at least 80 days prior to election.

(b) Written approval of consent by the governing body of the other political subdivision or subdivisions holding an election or elections.

SEC. 13. Section 5344 of the Education Code is amended to read:

5344. Within the territory affected by the order of consolidation the election precincts, polling places, voting booths and polling hours shall, in every case, be the same and there shall be only one set of

election officers in each of the precincts When the returns of elections consolidated pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code are required to be canvassed by different canvassing boards, the elections shall be conducted separately in the same manner as if they had not been consolidated, except as provided in this section.

SEC 14. Section 5401 of the Education Code is amended to read:

5401 Subject to the provisions of Sections 5013 and 5341 of this code, the ballot used in any school district or community college district governing board election shall be subject to the following requirements:

(a) Ballot paper or punchcards, whichever is used, shall be acquired from the Secretary of State pursuant to Section 10001 of the Elections Code.

(b) All ballots used in district governing board member elections shall have printed immediately below the perforated line along the top of the ballot, and above any instructions to voters, in capital type at least 12-point in size the words "Ballot for School or Community College District Governing Board Member Election," followed by the name of the district. If a punchcard voting system is used, only the name of the election and the date of the election shall be printed on the stub attached to the punchcard and the words "Ballot for School District or Community College Governing Board Member Election," followed by the name of the district, shall be printed upon any ballot reference page or pages upon which is also printed, the instructions to the voters, office titles, names of candidates and the ballot titles of measures, in conformance with the provisions of Chapter 2 (commencing with Section 10200) of Division 8 of the Elections Code.

(c) It shall comply with the provisions of the Elections Code as to ballot form and details including candidates occupational designation, excepting instructions to voters thereon shall be as provided for in local elections by the Elections Code

SEC. 15. Section 5440 of the Education Code is amended to read:

5440. The provisions of Division 13 (commencing with Section 20000) of the Elections Code, relating to election contests shall apply to school district elections

SEC 16. Section 5441 of the Education Code is amended to read:

5441 The returns of any school district or community college district election received by the county clerk or registrar of voters having jurisdiction shall, after the date of the declaration and certification of the final results of the election, be disposed of as follows:

(a) The sealed envelope containing the voted ballots, including ballots rejected for improper markings, shall be kept by the county superintendent unopened and unaltered for six months. If a contest or criminal prosecution is not commenced within the six-months' period as provided in Division 13 (commencing with Section 20000) of the Elections Code, he shall destroy the envelope, or have it

destroyed, without its being opened or its contents examined. This paragraph also applies to absent ballots and identification envelopes.

(b) The envelope containing spoiled, canceled, and defaced unused ballots shall remain unopened in the custody of the county superintendent and shall be held and disposed of as is the envelope provided for in paragraph (a) of this section.

(c) The envelope containing the tally sheet, challenge sheet, challenge list, assisted voter list, and affidavits of election officers assisting voters, shall be disposed of in the same manner, but the contents of this envelope may be made available to voters for inspection at any time following commencement of the official canvass of votes.

SEC. 17. Section 15101 of the Education Code is amended to read:

15101. Notwithstanding any provision of law to the contrary, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

SEC. 18. Section 15121 of the Education Code is amended to read:

15121. Any election called pursuant to Sections 15100 to 15141, inclusive, and Sections 15142 to 15261, inclusive, may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

SEC. 19. Section 16062 of the Education Code is amended to read:

16062. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 16058 may be called and held either before or after the making of an apportionment except that no such election shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

SEC. 20. Section 18517 of the Education Code is amended to read:

18517. Any election called pursuant to this article may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code. In such event, the provisions of law governing such other election with respect to the manner of marking ballots and hours of elections shall apply.

SEC. 20.5. Section 19606 of the Education Code is amended to read:

19606. The officials in charge of conducting the election shall

cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. Such a ballot pamphlet is "official matter" within the meaning of Section 10010 of the Elections Code.

SEC. 21. Section 19700 of the Education Code is amended to read:

19700. (a) Except as otherwise provided in this article, the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code) shall govern and control the conduct of elections pursuant to this chapter Elections shall be held biennially in the district on the same day as the school district election as specified in Section 5000 in the odd-numbered years.

(b) The trustees shall hold office for the term of four years beginning on the first day of July next succeeding their appointment or election. In any existing district the term of office of the trustees expiring prior to the first election to be held in an odd-numbered year shall continue until their successors in office are duly elected in such election and enter upon their offices.

For purposes of implementing the changes in the dates of election and in the dates of the commencement and termination of the terms of office of the trustees effected by the Legislature at the 1973–74 Regular Session, no election for trustees shall be held in conjunction with the 1974 general election. For such purposes trustees whose terms are expiring in January 1975, shall continue to serve in the offices involved until June 30, 1975, and trustees whose terms are expiring in January 1977, shall continue to serve in the offices involved until June 30, 1977 All of the offices that will expire shall be filled by election conducted pursuant to subdivision (a) in the year in which the office expires.

(c) The members of the first board of library trustees appointed or elected in a district shall, at their first meeting, so classify themselves by lot that their terms shall expire: two on the 30th day of June of the first odd-numbered calendar year next succeeding their appointment or election, and three on the 30th day of June of the second succeeding odd-numbered calendar year.

SEC. 22. Section 24903 of the Education Code is amended to read:

24903. The election may be consolidated with any other election pursuant to Chapter 4 (commencing with Section 23300) of Part 2 of

Division 14 of the Elections Code.

SEC. 23. Section 42206 of the Education Code is amended to read:

42206. Notwithstanding any provision of law to the contrary, no election for the purpose of increasing or decreasing any maximum tax rate for any school district shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as such statewide election, subject to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

SEC. 24. Section 42207 of the Education Code is amended to read:

42207. Any election called pursuant to Sections 42200 to 42204, inclusive, may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

SEC. 25. Section 85117 of the Education Code is amended to read:

85117. Any election called pursuant to Sections 85110 to 85114, inclusive, may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

SEC. 26. Section 56 of the Elections Code is amended to read:

56. Every voter shall be entitled to write the name of any candidate for any public office, including that of presidential elector, on the ballot of any election.

SEC. 27. Section 57.5 is added to the Elections Code, to read:

57.5. Whenever a group of candidates for presidential electors, equal in number to the number of presidential electors to which this state is entitled, files a declaration of write-in candidacy with the Secretary of State, the declaration may contain the name of the candidate for President of the United States and the name of the candidate for Vice President of the United States for whom all of those candidates for presidential electors pledge themselves to vote.

SEC. 28. Section 75 is added to the Elections Code, to read:

75. Unless otherwise specifically provided, no person is eligible to be elected or appointed to an elective office unless that person is a registered voter and otherwise qualified to vote for that office.

SEC. 29. Section 402 of the Elections Code is amended to read:

402. When any elector is registered, his name, residence, and residence telephone number, if furnished, shall be entered on the stub attached to the original affidavit. If for any cause the affidavit is spoiled in the course of execution or a mistake is made, the affidavit shall not be destroyed, but the name of the elector for whom it was intended, with his residence, shall be entered on the stub as in other cases, and the stubs and affidavits each marked with the word "spoiled."

SEC. 30 Section 1642 of the Elections Code is amended to read:

1642. The county clerk shall also publish the list of the names of

the precinct board members appointed and the polling places designated for each election precinct. Publication shall be pursuant to Section 6061 of the Government Code in the county where the election is to be held and in any newspaper of general circulation designated by the county clerk.

SEC. 31. Chapter 1.5 (commencing with Section 2520) is added to Division 4 of the Elections Code, to read:

CHAPTER 1.5. ELECTION DAY

2520. No election shall be held on any day other than a Tuesday nor shall any election be held on the day after a state holiday.

SEC. 32. Section 5353 of the Elections Code, as amended by Chapter 1 of the Statutes of 1977, is amended to read:

5353. (a) Each city, county, city and county, and district may hold, at their discretion, an advisory election in consolidation with scheduled elections in the city, county, city and county, or district for the purpose of allowing voters within the respective jurisdiction to voice their opinion on substantive issues or to indicate to the local legislative body approval or disapproval of the ballot proposal.

(b) An advisory vote will be indicated as such on the ballot as a heading above the ballot proposal and by only the following description: "Advisory Vote Only."

(c) As used in this section, "advisory vote" means an indication of general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body.

SEC. 33. The heading of Chapter 1 (commencing with Section 6000) of Division 6 of the Elections Code is amended to read:

CHAPTER 1. REPUBLICAN PRESIDENTIAL PRIMARY

SEC. 33.5. Section 6401 of the Elections Code is amended to read:

6401. No declaration of candidacy for a partisan office or for membership on a county central committee shall be filed, by a candidate unless (1) at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as he has been eligible to register to vote in the state, the candidate is shown by his affidavit of registration to be affiliated with the political party the nomination of which he seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which he seeks within 12 months immediately prior to the filing of the declaration.

The county clerk shall attach a certificate to the declaration of candidacy showing the date on which the candidate registered as intending to affiliate with the political party the nomination of which he seeks, and indicating that the candidate has not been affiliated

with any other qualified political party for the 12-month period immediately preceding the filing of the declaration. The provisions of this section shall not apply to declarations of candidacy filed by a candidate of a political party participating in its first direct primary election subsequent to its qualification as a political party pursuant to the provisions of Section 6430.

SEC. 34. Section 6490.2 of the Elections Code is amended to read:

6490.2. If only one candidate has declared a candidacy for a partisan nomination at the direct primary election for a party qualified to participate at that election, and that candidate dies after the last day prescribed for the delivery of nomination documents to the county clerk, as provided in Section 6490, but not less than 83 days before the election, any person qualified under the provisions of Section 6401 may circulate and deliver nomination documents for the office to the county clerk up to 5 o'clock p.m. on the 74th day prior to the election. In such case, the county clerk shall, immediately after receipt of such nomination documents, certify and transmit them to the Secretary of State in the manner specified in this article.

SEC 35 Section 6554 of the Elections Code is amended to read:

6554. A filing fee of ten dollars ($10) shall be paid to the county clerk for filing a declaration of candidacy for an office to be voted for wholly within one county other than a legislative or congressional office with the following exceptions:

(a) No filing fee is required from any candidate for an office for which no fixed compensation is payable.

(b) No filing fee is required for offices the compensation for which does not exceed the sum of six hundred dollars ($600) annually.

(c) A filing fee of 1 percent of the annual salary of the office shall be paid to the county clerk by each candidate for a judicial office or for the office of district attorney

(d) The filing fee to be paid to the county clerk by each candidate for a county office, other than a judicial office and the office of district attorney, shall be the same percentage of the annual salary of the office as that provided for in subdivision (a) of Section 6552 of this code. This subdivision shall not apply to any candidate for any office for which the annual salary is two thousand five hundred dollars ($2,500) or less.

SEC. 36. Section 6830 of the Elections Code is amended to read:

6830. Each candidate or group of candidates shall submit a nomination paper which shall contain:

(a) The name and residence address of each candidate, including the name of the county in which he resides.

(b) A designation of the office for which the candidate or group seeks nomination.

(c) A statement that the candidate is not, and was not at any time during the one year preceding the immediately preceding primary election at which a candidate was nominated for the office mentioned in the nomination paper, registered as affiliated with a

political party qualified under the provisions of Section 6430. The statement required by this subdivision shall be omitted when no primary election was held to nominate candidates for the office to which the independent nomination paper is directed.

SEC. 37. Section 6831.1 of the Elections Code is amended to read:

6831.1. (a) Within 30 days from the date of receiving the nomination paper if, from the examination of such pursuant to Section 6831, more than 500 signatures have been signed on the nomination paper petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the nomination paper sufficient, the elections official shall examine and verify each signature filed

(c) In determining from the records of registration, what number of valid signatures are signed on the nomination paper, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles is permitted by law

(d) The elections official shall attach to the nomination paper, a certificate showing the result of this examination, and shall notify the candidate of either the sufficiency or insufficiency of the nomination paper.

(e) If the nomination paper is found insufficient, no action shall be taken on the nomination paper. However, the failure to secure sufficient signatures, shall not preclude the submission later of an entirely new nomination paper to the same effect

(f) If the nomination paper is found to be sufficient, the elections official shall certify the results of the examination.

SEC. 38. Section 6832 of the Elections Code is amended to read:

6832. When a nomination paper or sections of a nomination paper have been received which contain the number of valid signatures required in Section 6831, the officer with whom those papers are required to be left shall not accept additional sections of the nomination paper for the candidate named in it

SEC. 39. Section 6833 of the Elections Code is amended to read:

6833. Nomination papers shall be filed with the Secretary of State not more than 129 nor less than 64 days before the day of the election, and shall be prepared, circulated, signed, verified and left with the county clerk for examination no earlier than 134 days before the election and no later than 5 p.m. 74 days before the election. If the total number of signatures submitted to a county clerk for an office

entirely within that county does not equal the number of signatures needed to qualify the candidate, the county clerk shall declare the petition void and is not required to verify the signatures. If the district falls within two or more counties, the county clerk shall within two working days report in writing to the Secretary of State the total number of signatures submitted. If the Secretary of State finds that the total number of signatures submitted in the district or state is less than the minimum number required to qualify the candidate he shall within one working day notify in writing the counties involved that they need not verify the signatures

SEC. 40. Section 6835 of the Elections Code is amended to read:

6835. Any nomination paper may be presented in sections, but each section shall contain the name of the candidate and the name of the office for which he is proposed for nomination. Each section shall bear the name of the county in which it is circulated.

SEC. 41. Section 6838 of the Elections Code is amended to read:

6838. Each section of a nomination paper shall be as follows:

County of _____ Nomination paper of _____, candidate for the office of _____

State of California }
County of _____ } ss

SIGNER'S STATEMENT

I, undersigned, am a voter of the County of _____, State of California. I hereby nominate _____, who resides at No. _____, _____ Street, City of _____, County of _____, State of California, as a candidate for the office of _____ to be voted for at the election to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate for the same office

No	Printed Name	Signature	Residence
1			
2			
3			
4			
5			
etc			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the

nomination paper of _____ as candidate for the office of _____; that the signatures were obtained between _____ 19__ and _____ 19__; that all the signatures on this section of the nomination paper, numbered from 1 to _____ inclusive, were made in my presence, and that, to the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____
Circulator

Subscribed and sworn to before me this _____ day of _____ 19__.

_____
(SEAL) Notary Public (or other official)

SEC. 41.5. Section 6863 of the Elections Code is amended to read:

6863 Circulators may be appointed by the candidate on a form which shall be substantially as follows:

I, the undersigned, a candidate for the office of _____, which office is to be voted on at the _____ election to be held on _____ day of _____, 19__, do hereby appoint the following voters of the _____ of _____, as circulators to obtain signatures in that _____ to a nomination paper placing me in nomination as a candidate for that office

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Signature) _____
(Residence) _____

Filed in the office of the County Clerk of _____ County this _____ day of _____, 19__.

_____, County Clerk
By _____, Deputy

SEC. 42. Section 6920 of the Elections Code is amended to read:

6920. Each candidate, at least 74 days prior to the election, shall leave with the officer with whom his nomination papers are required to be left an affidavit which shall state:

(a) His residence, with street and number, if any.
(b) His election precinct.
(c) That he is a voter in the precinct in which he resides.
(d) The name of the office for which he is a candidate.

(e) That he will not withdraw as a candidate before the election.

(f) That, if elected, he will qualify for the office.

The name of a candidate shall not be placed on the ballot unless the affidavit provided for in this section has been properly filed.

SEC. 43. Article 1 (commencing with Section 8660) of Chapter 3 of Part 2 of Division 6 of the Elections Code is repealed.

SEC. 44. Article 1 (commencing with Section 8660) is added to Chapter 3 of Part 2 of Division 6 of the Elections Code, to read:

Article 1. Members

8660. The state central committee shall consist of:

(a) One member for each of the following elective officials:

(1) Governor.

(2) Lieutenant Governor.

(3) Treasurer.

(4) Controller.

(5) Attorney General

(6) Secretary of State

(7) All members of the State Board of Equalization.

(8) All Senators and Representatives of Congress from California.

(9) All Members of the State Legislature.

(b) The chairman of each county central committee of the party.

(c) Members appointed pursuant to this part.

(d) The national committeemen and national committeewomen of the party.

(e) Any person elected to fill a vacancy in the State Legislature in a special election.

(f) The immediate past chairman and the immediate past northern and southern section chairmen

8661. (a) Each officer named in subdivision (a) of Section 8660 who was nominated and elected as a candidate of the party and whose term of office extends beyond the eighth day of January next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any such officer, shall be known as a "holdover member."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election by that party shall be known as a "nominee member." Nominees for an office, the term of which extends beyond two years, are members of each succeeding state central committee until that following the direct primary election at which nominations for the office are again to be made. If a candidate is a "nominee member" in the year in which he is nominated, and is elected to the office at the succeeding general election, he shall be considered a "holdover member" in the next odd-numbered year.

(c) One member shall be appointed pursuant to Section 8672 for each of the officers named in subdivision (a) of Section 8660 not

represented by a "holdover member" nor by a "nominee member" of the party

8662. A person otherwise qualifying for more than one membership listed in subdivision (a) of Section 8660 shall be a member solely by virtue of that membership last acquired.

8663. Each member listed in subdivision (a) of Section 8660 shall appoint to membership on this committee two voters of the same sex as the member and three voters of the opposite sex, which appointments when so made shall be absolute.

8664. A "holdover member" or a "nominee member" who has been elected to an office under subdivision (a) of Section 8660 at the general election, or following any special election, shall appoint two additional voters, without regard to sex, to membership on this committee.

8665 Any person who is a member of this committee by virtue of having been elected to fill a vacancy in the State Legislature in a special election, shall within 60 days of the special election, appoint additional members to this committee in the same manner as holdover members and nominee members make such appointments.

8666. Appointments of members of this committee shall be made in writing signed by the member and delivered to the Secretary of State not later than 5 o'clock p.m. of the 16th day immediately preceding the Sunday on which the first meeting of the committee is to be held.

8667. Each member listed in Section 8661 shall send a notice by mail to each person whom he has appointed as a member of this committee which will inform him that:

(a) He is a member of the committee.

(b) The committee will meet in Sacramento and the date of the meeting.

(c) The meeting may be attended either in person or by proxy.

(d) Every proxy shall be filed in the office of the Secretary of State not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.

(e) The proxy shall be in writing signed by the member under penalty of perjury.

Each such appointing member shall enclose with each notice one copy of the form of proxy sent to that member by the Secretary of State.

8668. A person is not eligible for appointment to this committee if he is not registered as affiliated with this party at the time of his appointment.

8669. This committee may remove any appointive member who during his term of membership affiliates with or registers as a member of another party, publicly advocates that the voters should not vote for the nominee of the party for any office, or who publicly gives support to or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party

8670. In the event of the appointment of an ineligible person, or whenever any member of this committee dies, resigns, or becomes incapacitated to act, or removes from the jurisdiction of the committee or ceases to be a member of the committee's party, a vacancy exists which shall be filled in the manner prescribed in Section 8671. A vacancy shall also exist on this committee when a member is removed from the committee pursuant to Section 8776 or Section 8669 and such vacancy shall be filled in the manner prescribed in Section 8671, such member to serve the remainder of the unexpired term of the member removed.

8671. Should a member appointed to membership pursuant to Section 8663 or 8664 cease to be a member for any of the reasons specified in Section 8670, the vacancy shall be filled by the person who appointed him, unless that person is himself no longer a member of this committee or indicates that he does not wish to fill the vacancy, in which instances the committee shall do so.

Notice shall be given by the committee to a person entitled to fill a vacancy under this section as soon as possible after the occurrence of the vacancy and vacancies shall be filled not less than three days preceding the first meeting of the committee. The committee shall notify in writing the Secretary of State of all appointments made pursuant to this section.

8672 Members shall be appointed to fill vacancies occurring pursuant to subdivision (c) of Section 8661 as follows.

(a) If the vacancy occurs in a senatorial or Assembly district situated wholly within the limits of a single county, by appointment by the county central committee of the party in the county. Whenever such a vacancy occurs by virtue of the failure to nominate a person affiliated with the party, no person shall be chosen to fill the vacancy who does not reside in the senatorial or Assembly district involved.

(b) If the vacancy occurs in a senatorial or Assembly district comprising two or more counties, by appointment by the county central committee of the party in the county in which the disqualified or deceased member resided, if the vacancy is caused by disqualification or death, or in which the "holdover member" or "nominee member" of the opposing party resides, if the vacancy is due to any other cause.

(c) If the vacancy occurs as to a United States Senator from California or as to any of the state officers named in subdivision (a) of Section 8660, by appointment by the state central committee.

(d) If the vacancy occurs as to any Representative in Congress from California, by appointment by the state central committee of a voter who resides within the congressional district to be represented

8673. In the event the appointment of alternate or associate members is authorized by statute or the rules of the committee, this committee shall supply forms to the members for the appointment of such members The forms shall be in substantially the same

language as set forth in Section 8101, and shall contain suitable spaces wherein there can be listed the addresses and the numbers of the congressional, Assembly, and senatorial districts in which the appointees reside.

8674. Each member listed in subdivision (a) of Section 8660 may appoint three voters as associate members of this committee. An associate member shall have such privileges and obligations as are given to him by the rules of the committee but shall not be able to vote.

8675. A person who is registered to vote is qualified for appointment to the committee if otherwise eligible.

SEC. 45. Section 8660 is added to the Elections Code, to read:

8660. The state central committee shall consist of:

(a) One member for each of the following elective officials:

(1) Governor.

(2) Lieutenant Governor.

(3) Treasurer.

(4) Controller.

(5) Attorney General.

(6) Secretary of State.

(7) All members of the State Board of Equalization.

(8) All Senators and Representatives of Congress from California.

(9) All members of the State Legislature.

(b) The chairman of each county central committee of the party.

(c) Members appointed pursuant to this part.

(d) The national committeemen and national committeewomen of the party.

(e) Any person elected to fill a vacancy in the State Legislature in a special election.

(f) The immediate past chairman and the immediate past northern and southern section chairmen.

(g) The members selected pursuant to Section 8660.5.

SEC. 46. Section 8660.5 is added to the Elections Code, to read:

8660.5. Each county central committee shall be entitled to elect from its own membership, additional members to the state central committee on the basis of one additional member for each 50,000 registered Democrats, or fraction thereof, residing within the county. The number of additional members to which each county is entitled shall be determined by the total number of registered Democrats residing in the county at the time of the close of registration prior to the preceding general election.

SEC. 46.5. Section 8710 of the Elections Code, as amended by Chapter 4 of the Statutes of 1977, is amended to read:

8710. This committee shall convene in Sacramento in the January after a general election no later than 10 o'clock a.m. of the last Sunday of the month.

SEC. 47. Section 10203 of the Elections Code is amended to read:

10203. Across the top of the ballot shall be printed in heavy-faced gothic capital type not smaller than 30-point, the words "OFFICIAL

BALLOT " However, if the ballot is no wider than a single column, the words "OFFICIAL BALLOT" may be as small as 24-point. Beneath this heading, in the case of a partisan primary election, shall be printed in 18-point boldfaced gothic capital type the official party designation or the words "NONPARTISAN BALLOT" as applicable. Beneath the heading line or lines, there shall be printed, in boldface type as large as the width of the ballot makes possible, the number of the congressional, Senate, and Assembly district, the name of the county in which the ballot is to be voted, and the date of the election.

SEC. 48. Section 10204 of the Elections Code is amended to read:

10204 At least three-eighths of an inch below the district designation shall be printed the instructions to voters. The instructions shall begin with the words "INSTRUCTIONS TO VOTERS:" in no smaller than 16-point gothic condensed capital type. Thereafter there shall be printed in 10-point gothic type such of the following directions as are applicable to the ballot:

"To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice, Court of Appeal, stamp a cross (+) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate, stamp a cross (+) in the voting square after the word "No," to the right of the name of that candidate."

"To vote for any other candidate of your selection, stamp a cross in the voting square to the right of the candidate's name. [When justices of the Supreme Court or court of appeal do not appear on the ballot, the instructions referring to voting after the word "Yes" or the word "No" will be deleted and the above sentence shall read: "To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name."] Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote, not to exceed, however, the number of candidates to be elected "

"To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office."

"To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

"All distinguishing marks or erasures are forbidden and make the ballot void."

"If you wrongly stamp, tear, or deface this ballot, return it to the precinct board member and obtain another "

"On absent voter ballots mark a cross (+) with pen or pencil."

The instructions to voters shall be separated by a no smaller than a two-point rule from the portion of the ballot which contains the various offices and measures to be voted on

SEC 48.5 Section 10208 of the Elections Code is amended to read

10208. In the right-hand margin of each column light vertical lines shall be printed in such a way as to create a voting square after the name of each candidate for partisan office, nonpartisan office (except for justice of the Supreme Court or court of appeal), or for chairman of a group of candidates for delegate to a national convention who express no preference for a presidential candidate. In the case of Supreme Court or appellate justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting squares to the right of the words "Yes" and "No." The voting squares shall be used by the voters to express their choices as provided for in the instruction to voters.

The standard voting square shall be at least three-eighths of an inch square but may be up to one-half inch square. Voting squares for measures may be as tall as is required by the space occupied by the title and summary.

SEC. 49. Section 10217 of the Elections Code is amended to read:

10217. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container which shall be shaken vigorously in order to mix them thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) There shall be six such drawings, three in each even-numbered year and three in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this subdivision. The results of each drawing shall be mailed immediately to each county clerk or other official responsible for conducting an election to which the drawing is applicable who shall use it in determining the order on the ballot of the names of the candidates for office.

The first such drawing shall take place on the Monday following the first day of January in an even-numbered year and shall apply to the March general law city elections and any other elections held at the same time.

The second shall take place on the 82nd day before the direct primary in June of an even-numbered year and shall apply to all candidates on the ballot in that election.

The third shall take place on the 63rd day before the November general election of an even-numbered year and shall apply to all candidates on the ballot in the November general election.

In the case of the June primary election and the November general election, the Secretary of State shall certify and transmit to each county clerk the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The clerk shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose.

The fourth drawing shall take place on the Monday following the first day of January in an odd-numbered year and shall apply to all candidates on the ballot in the elections held on the first Tuesday after the first Monday in March of that year.

The fifth drawing shall take place on the first Monday in April of the odd-numbered year and shall apply to all candidates on the ballot in elections held on the last Tuesday in May of that year.

The sixth shall take place on the second Monday in September of the odd-numbered year and shall apply to all candidates on the ballot in the November elections conducted under the Uniform District Election Law and any other elections held at the same time.

In the event there is to be an election of candidates to a special district, school district, charter city, or other local government body at the same time as one of the six major election dates specified above and the last possible day to file nomination papers for the local election would occur after the date of the drawing for the major election date, the procedure set forth in Section 10217.5 shall apply.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of it. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative. The state chairman of each qualified political party shall be invited to attend or send a representative in the case of drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d) of this section.

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first weekday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c) of this section. The resulting randomized alphabet shall be used for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

SEC. 50. Section 10220 of the Elections Code is amended to read:

10220. In the case of candidates for delegate to national

convention, there shall be printed in boldface gothic type, not smaller than 10-point, across the column above the names of the persons preferred by the groups of candidates for delegates, the words, "For delegates to national convention." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column and over the voting square.

In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting squares for that office. The heading "President and Vice President" shall be printed in boldface 12-point gothic type and shall be centered above the names of the candidates.

In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each such candidate and immediately above the name of each such candidate, there shall appear the following: "For (designation of judicial office)." There shall be as many such headings as there are candidates for such judicial offices and such a heading shall not apply to more than one such judicial office.

In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running and the words "vote for one" or "vote for no more than two" or more according to the number to be nominated or elected. The designation of the office shall be printed flush with the left-hand margin in boldfaced gothic type not smaller than eight-point. The words, "vote for _____" shall extend to the extreme right-hand margin of the column and over the voting square. The designation of the office and the directions for voting shall be separated from the candidates by a light line.

SEC. 50.3 Section 10221 of the Elections Code is amended to read:

10221. The names of the candidates shall be printed on the ballot, without indentation, in roman capital, boldface type not smaller than eight-point, between light lines or rules at least three-eighths of an inch apart but no more than one-half inch apart. However, in the case of candidates for President and Vice President, the lines or rules may be as much as five-eighths of an inch apart.

SEC. 50.5. Section 10222 of the Elections Code is amended to read:

10222. Under the designation of each office shall be printed as many blank spaces, defined by light lines or rules at least three-eighths of an inch apart but no more than one-half inch apart, as there are candidates to be nominated or elected to the office.

SEC. 51. Section 10228 of the Elections Code is amended to read:

10228. Except as to the order of names of candidates the ballots shall be printed in substantially the following forms according to the type of election as shown in headings of the sample forms. The first and second examples represent primary election ballots whereas the third and fourth represent general election ballots.

6352 PERFORATED LINE

(The number shall be the same on all ballots issued to each voter and headed to the voter)

PERFORATED LINE

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP; NEVER WITH PEN OR PENCIL

6352 (ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)

(Fold ballot to this line, leaving top margin exposed)

OFFICIAL BALLOT

NONPARTISAN BALLOT

18th Congressional, 38th Senatorial, 44th Assembly District, Los Angeles County June 4, 1950

INSTRUCTIONS TO VOTERS:

To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot, return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

JUDICIAL	
Judge of the Superior Court Office No One — Vote for One	
CHAS W FRICKE Judge of the Superior Court	
Judge of the Superior Court Office No Two — Vote for One	
SAMUEL B. GLAKE Judge of the Superior Court	
Judge of the Superior Court Office No. Three — Vote for One	
CLARENCE L. KINCAID Judge of the Superior Court	
Judge of the Superior Court Office No Four — Vote for One	
THOMAS L. AMBROSE Judge of the Superior Court	
Judge of the Superior Court Office No Five — Vote for One	
CLARENCE M. HANSON Judge of the Superior Court	
Judge of the Superior Court Office No. Six — Vote for One	
ALLEN W. ASHBURN Judge of the Superior Court	
CHARLES B. McCOY Judge Municipal Court, Los Angeles Judicial District	
Judge of the Superior Court Office No. Seven — Vote for One	
FREDERICK F. HOUSER Judge of the Superior Court	
Judge of the Superior Court Office No Eight — Vote for One	
DANIEL N. STEVENS Judge of the Superior Court	
Judge of the Superior Court Office No. Nine — Vote for One	
FREDERICK McCOY Judge of the Superior Court	
Judge of the Superior Court Office No Ten — Vote for One	
VICTOR R. HANSEN Judge of the Superior Court	
Judge of the Superior Court Office No. Eleven — Vote for One	
LOUIS H. BURKE Judge of the Superior Court	
IDA MAY ADAMS Judge	

COUNTY	
Supervisor Fourth District — Vote for One	
RAYMOND V. DARBY Supervisor Fourth District, Los Angeles County	
GLENN M. ANDERSON Business Man	
CHANDOR F. BEERS Public Relations Counselor	
HAROLD HARBY Councilman City of Los Angeles	
ARTHUR E. ROLL Investment Executive	
LEONARD J. McMULLEN Auditor	
ERNEST A. STEWART Tax Economist	
ERIE WHITE Automobile Dealer	
District Attorney — Vote for One	
S. ERNEST ROLL District Attorney Los Angeles County	
CLAUDE A. WATSON Attorney at Law	

J—ab 11-6

0264 PERFORATED LINE

This number shall be torn off by person issued number before ballot is voted in the voter's

PERFORATED LINE

0264

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP, NEVER WITH PEN OR PENCIL
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL)
(Fold ballot to this line, leaving top margin exposed)

OFFICIAL BALLOT

REPUBLICAN PARTY

28th Congressional, 30th Senatorial, 57th Assembly District, Los Angeles County

June 2, 1964

INSTRUCTIONS TO VOTERS:

To vote for the group of candidates preferring a person whose name appears on the ballot stamp a cross (+) in the square opposite the name of the person preferred. To vote for a group of candidates not expressing a preference for a particular candidate, stamp a cross (+) in the square opposite the name of the chairman of the group.

To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote, not to exceed however the number of candidates to be elected.

To vote for a qualified write-in candidate write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office

To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear, or deface this ballot return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil

PARTISAN OFFICES

FOR DELEGATES TO NATIONAL CONVENTION

Vote for One Group Only

Candidates Preferring BARRY M. GOLDWATER

Candidates Preferring NELSON A. ROCKEFELLER

Candidates Expressing No Preference
William Whitney (Chairman)

CONGRESSIONAL

United States Senator Vote for One

GEORGE MURPHY
Business Executive

FRED HALL
Attorney

LELAND M. HAMER
Businessman

Representative in Congress Fifty Seventh District Vote for One

ALPHONZO BELL
United States Congressman

LEE BOBLE
Publisher

STATE LEGISLATURE

Member of the Assembly Twenty Eighth District Vote for One

CHARLES J. CONRAD
Member of Assembly
Pico-Beverly Hills District

COUNTY COMMITTEE

Member County Central Committee 57th Assembly District Vote for No More Than Seven

MYRL R. SCOTT

DUNCAN I. McALPINE
Retired Insurance Executive

AL LIVINGSTON
Member County Committee

RICHARD E. CULBERTSON
Incumbent

LENORE F. TEAMANS
Incumbent

DARRELL (JACK) BEVER

DENNIS J. HAYES
Pharmacist

JACQUELINE (JACKIE) HARKER

MARTHA I. JANNEY
Incumbent

KENNETH HARRIS
Owner Insurance Agency

HARRY L. THOMAS, JR.
Printer

GERALD O. NORDBERG
Corporate Treasurer

PETER T. TAYLOR
Member County Committee

FRANK L. POUCH

RICHARD B. (DICK) CRAVEN
Corporation President

JAMES PATTERSON YOUNG
Attorney at Law

HARRY P. SADOIAN
Electronics Executive

HAROLD E. WHITE
Incumbent

TED F. THOMAS
Executive Vice President

DAVID M. STAPLES
Aerospace Manager

BARBARA ROSENQUIST
Fashion Consultant

LUCILLE J. BOSTON
Merchandising Executive

JANET M. BARRETT
Homemaker

NICHOLAS (NICK) MUSEY
Film Executive

ELIZABETH (BETTY) HERITZ

1 - b 1 Co

NONPARTISAN OFFICES

JUDICIAL

Judge of the Superior Court Office No Three Vote for One

PHILBRICK COX
Judge of the Superior Court

DONALD RAYMOND MEEKER
Attorney at Law

Judge of the Superior Court Office No Five Vote for One

THOMAS CARL LINDHOLM
Attorney

MELANIE MAJORELL
Attorney

PHIL L. SILVER
Attorney at Law

JOSEPH A. SPRANKLE JR.
Judge Municipal Court

CHARLES H. WOOLMANSEE
Judge Municipal Court
Los Angeles Judicial District

DONALD C. CALLAGHER
Attorney at Law

Judge of the Superior Court Office No Sixteen Vote for One

ALFRED GITELSON
Judge of the Superior Court

HARRY PREGERSON
Attorney at Law

Judge of the Superior Court Office No Twenty Four Vote for One

WILLIAM E. doFAGEN
Judge of the Superior Court

CHARLES W. HUFFMAN
Attorney at Law

Judge of the Superior Court Office No Twenty Nine Vote for One

PAUL D. STRADER
Attorney at Law

VIRGIL VICTOR BECKER
Attorney at Law

FINDLAY A. CARTER
Attorney

LOUIS T. FLETCHER
Judge, Municipal Court

RAYMOND R. ROBERTS
Judge Municipal Court
Los Angeles Judicial District

Judge of the Justice Court Malibu Judicial District Vote for One

MICHAEL C. COLLINS
Superior Court Clerk

J. LAURENCE R. GARVIN
Attorney at Law

HARVEY M. GEORGE
Attorney

JOHN J. MURRAY
Attorney at Law

ROBERT O. RICHARDSON
Attorney at Law

COUNTY

Supervisor 5th District Vote for One

WARREN M. DORN
Supervisor Fifth District

FERNANI (ERNIE) BERNARDI
Councilman, City of Los Angeles

LYMAN R. FOSTER
Publisher

CLARENCE A. DARLEY
Mayor, City of Pasadena

District Attorney Vote for One

VINCENT S. DALSIMER
Judge of the Superior Court

EVELLE J. YOUNGER
Judge of the Superior Court

MANLEY J. BOWLER
Chief Deputy District Attorney

MEASURES SUBMITTED TO VOTE OF VOTERS

LAS VIRGENES UNIFIED SCHOOL DISTRICT MAXIMUM TAX RATE ELECTION

B	Shall the continuation of existing maximum tax rate of $3.85 for the Las Virgenes Unified School District for the school years 1964 to 1967 be authorized?	YES	
		NO	

01376 5105 1205

1154　PERFORATED LINE

(This number shall be torn off by ... and handed ... voter)

1154

MARK CROSSES (✠) ON BALLOT ONLY WITH RUBBER STAMP, NEVER WITH PEN OR PENCIL.
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)
(Fold ballot to this line, leaving top margin exposed)

OFFICIAL BALLOT

22d Congressional, 38th Senatorial, 57th Assembly District, Los Angeles County

November 2, 1954

INSTRUCTIONS TO VOTERS:

To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice Court of Appeal; or Associate Justice, Court of Appeal, stamp a cross (✠) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate stamp a cross (✠) in the voting square after the word "No" to the right of the name of that candidate.

To vote for any other candidate of your selection, stamp a cross (✠) in the voting square to the right of the candidate's name. Where two or more candidates for the same office are to be elected stamp a cross (✠) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however, the number of candidates to be elected.

To vote for a qualified write-in candidate write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure stamp a cross (✠) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (✠) with pen or pencil.

STATE

Governor — Vote for One

- GOODWIN J. KNIGHT, Republican — Governor of California
- RICHARD PERRIN GRAVES, Democratic — Governmental Administrator
- (blank)

Lieutenant Governor — Vote for One

- HAROLD J. POWERS, Republican — Lieutenant Governor
- EDWARD R. ROYBAL, Democratic — Member Los Angeles City Council
- (blank)

Secretary of State — Vote for One

- FRANK M. JORDAN, Republican — Secretary of State
- FRANK G. H. STEVENS, Prohibition — Minister
- HORACE V. ALEXANDER, Independent Progressive — Machinist
- DANIEL BARBURN, Democratic — Newspaper Publisher
- (blank)

Controller — Vote for One

- ROBERT C. KIRKWOOD, Republican — State Controller
- GEORGE D. COLLINS JR., Democratic — Assemblyman 24th District, California Legislature
- FRED H. ROSS, Prohibition
- (blank)

Treasurer — Vote for One

- CHARLES G. JOHNSON, Republican — State Treasurer
- HERBERT S. COHN, Independent Progressive
- GEORGE E. JOHNSON, Democratic — Business Executive
- (blank)

Attorney General — Vote for One

- EDMUND G. (PAT) BROWN, Democratic — Attorney General of California
- EDWIN M. COOPER, Prohibition — Attorney
- (blank)

Member State Board of Equalization, Fourth District — Vote for One

- WILLIAM G. BONELLI, Democratic — Member State Board of Equalization
- ROBERT E. McDAVID, Republican — Certified Public Accountant
- (blank)

CONGRESSIONAL

United States Senator — Vote for One
(Short term, ending January 3, 1957)

- THOMAS H. KUCHEL, Republican — United States Senator
- ISOBEL M. CERNEY, Independent Progressive — Teacher and Writer
- SAMUEL WILLIAM YORTY, Democratic — Member of United States Congress
- (blank)

Representative in Congress, Twenty-second District — Vote for One

- JOE HOLT, Republican — Member of Congress
- WILLIAM M. COSTLEY, Democratic — Attorney at Law
- (blank)

STATE LEGISLATURE

State Senator, Thirty-eighth District — Vote for One

- FRANK NELSON, Prohibition — Radio Broadcaster
- RICHARD RICHARDS, Democratic — Attorney at Law
- MILDRED YOUNGER, Republican — Housewife
- (blank)

Member of the Assembly, Fifty-seventh District — Vote for One

- CHARLES J. CONRAD, Republican — Member Assembly 57th District
- CLIFFORD H. MARKER, Democratic — Business Executive
- (blank)

JUDICIAL

For Chief Justice of California

Shall DONALD R. WRIGHT be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice of the Supreme Court

Shall DOUGLAS L. EDMONDS be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice of the Supreme Court

Shall JOHN W. SHENK be elected to the office for the term prescribed by law? — YES / NO

For Presiding Justice, Court of Appeal, Second Appellate District, Division One

Shall PARKER WOOD be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice, Court of Appeal, Second Appellate District, Division One

Shall LOUIS C. DRAPEAU be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice, Court of Appeal, Second Appellate District, Division One

Shall CLEMENT L. SHINN be elected to the office for the term prescribed by law? — YES / NO

MEASURES SUBMITTED TO VOTE OF VOTERS

1 FOR THE VETERANS BOND ACT OF 1954. This act provides for a bond issue of one hundred seventy-five million dollars ($175,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.
AGAINST THE VETERANS BOND ACT OF 1954. This act provides for a bond issue of one hundred seventy-five million dollars ($175,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.

2 SCHOOL BONDS. Senate Constitutional Amendment No. 3. Directs issue and sale of $100,000,000 of State bonds to provide loans and grants to school districts to be used for such purposes as school site acquisition and improvement, school building construction and alteration, and school furniture and equipment purchase as well as for expenses of bond issue and of administration. Permits Legislature to reduce total bond issue by appropriation of other money or to augment bond proceeds by additional appropriation. Provides that fund allocation shall be regulated by Legislature which shall require districts to repay State according to their ability. — YES / NO

3 ALCOHOLIC BEVERAGE CONTROL. Senate Constitutional Amendment No. 4. Establishes Department of Alcoholic Beverage Control to administer liquor licensing laws in place of State Board of Equalization. Provides for Director of Alcoholic Beverage Control, appointed by Governor with Senate approval, subject to removal by Governor or by Legislature majority. Makes offenses involving moral turpitude an additional ground for denial, suspension, or revocation of liquor licenses. Establishes three-man board to hear appeals from department's decisions. Prohibits state manufacture or sale of liquor. Preserves consistent provisions of existing Alcoholic Beverage Control Act and vesting license fee scale until Legislature provides otherwise. — YES / NO

4 AID TO NEEDY AGED. Initiative Constitutional Amendment. Increases monthly aid payments to aged persons who meet eligibility requirements of Welfare and Institutions Code. Fixes $100 (instead of $80 heretofore fixed by law) as maximum monthly payments and permits Legislature to increase but not decrease that amount. Provides that payments shall be regarded as income of the recipient alone. Appropriates money for state share of Aged Aid. — YES / NO

5 TAXATION EXEMPTION OF VESSELS. Senate Constitutional Amendment No. 23. Continues exemption of California registered freight and passenger ships of more than 50 tons burden from local property taxation, such exemption otherwise due to expire January 1, 1955. — YES / NO

6 PAY OF LEGISLATORS. Assembly Constitutional Amendment No. 13. Sets salaries of Members of the State Legislature at $500 per month. — YES / NO

7 LAND TITLES. TORRENS ACT. Amendment of Initiative Act. Authorizes Legislature to amend or repeal the Land Title Law (Torrens Act) adopted by initiative in 1914. — YES / NO

8 TAX EXEMPTION OF COMMERCIAL AND FISHING VESSELS. Senate Constitutional Amendment No. 28. Provides that local property tax exemption of California registered vessels, otherwise due to expire January 1, 1955, shall continue but will include vessels engaged in commercial deep-sea fishing outside state territorial waters, as well as freight and passenger vessels. Exemption will be limited to vessels of more than 100 tons burden. — YES / NO

9 CHURCH EXEMPTION. PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 84. Provides that tax exemption of church buildings in the course of erection includes building equipment and the land on which the building is located. — YES / NO

10 TERMS OF STATE OFFICERS. Assembly Constitutional Amendment No. 1. Fixes terms of Assemblymen at four instead of two years, one half of members being elected every second year. Fixes terms of State Senators at six instead of four years, approximately one third being elected every two years. Limits future Governors to two successive terms. — YES / NO

11 TAXATION: EXEMPTION FOR DISABLED VETERANS. Assembly Constitutional Amendment No. 5. Authorizes tax exemption on home acquired with federal assistance by veteran who has permanent and total service-connected disability consisting of loss or loss of use of both lower limbs. Limits such exemption to $5,000. — YES / NO

12 VOTING ELIGIBILITY. Assembly Constitutional Amendment No. 88. Removes voting disqualification of person convicted of infamous crime after he has completed paying penalties imposed by law for such conviction. — YES / NO

13 VERNON CITY CHARTER. Assembly Constitutional Amendment No. 20. Authorizes City of Vernon in Los Angeles County to propose charter for adoption by city electors and ratification by Legislature. Limits power of originating future charter amendments to city council. Permits charter to define voting eligibility in city elections. If less than 175 registered voters reside in city on day of charter adoption election, permits charter to fix voting eligibility and eligibility for office without regard to residence and on basis of property ownership. Confines future annexations to uninhabited territory. — YES / NO

14 COLLEGE EXEMPTION. PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 83. Describes tax exemption of college buildings under course of construction as being inclusive of land on which the building is located. — YES / NO

15 WELFARE EXEMPTION, PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 25. Permits tax exemption now applied to property in actual operation for religious, hospital or charitable purposes and owned by nonprofit organization, to include building and land during time when building is under construction. Applies to buildings in course of construction in March 1954, and thereafter. — YES / NO

16 WATER RIGHTS OF GOVERNMENT AGENCIES. Senate Constitutional Amendment No. 30. Provides that acquisition of any interest in real property by any governmental agency, local, state or federal, shall constitute an agreement by the agency that it will conform to California water law with respect to such acquisition. — YES / NO

17 STREET AND HIGHWAY FUNDS. VEHICLE PARKING. Assembly Constitutional Amendment No. 38. Permits street and highway revenues collected by State (from sources such as gasoline taxes and motor vehicle registration and operation fees) to be used for financing vehicle parking facilities as the Legislature may prescribe. — YES / NO

18 RESIDENT NONCITIZENS; PROPERTY OWNERSHIP. Assembly Constitutional Amendment No. 10. Extends to resident foreigners who are eligible for United States citizenship the same privileges concerning property ownership as have been heretofore given to resident foreigners of white and African descent. — YES / NO

19 INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 87. Makes judge of a justice court eligible for office as judge of a superseding municipal court though he is not an attorney, where he has served as justice of the peace for five years preceding November 7, 1950, and as judge of the justice court continuously thereafter. — YES / NO

20 FRAMING COUNTY CHARTERS. Senate Constitutional Amendment No. 17. Extends time for preparation of proposed county charter by board of freeholders from present 120 days to six months. Alters requirements for nominating candidates for freeholder. — YES / NO

COUNTY QUESTIONS

A PROPOSITION A. County General Hospital, Osteopathic Division. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds in the sum of nine million two hundred twenty thousand dollars ($9,220,000) for the purpose of providing funds for the construction of a Los Angeles County Osteopathic Hospital, a division of the County General Hospital, including certain site clearance, equipment, furnishings and ground improvements therefor? — BONDS YES / NO

B PROPOSITION B. Court and Other County Facilities for Area Administrative Centers. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds in the sum of four million five hundred ten thousand dollars ($4,510,000) for the purpose of providing funds for the construction of new buildings and additions to and the renovation of existing buildings required for court and administrative facilities outside of the Los Angeles City central civic center area, including land, equipment, furnishings, and ground improvements therefor? — BONDS YES / NO

C PROPOSITION C. County Jail, Wayside Honor Rancho. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds in the sum of one million five hundred sixty three thousand dollars ($1,563,000) for the purpose of providing funds for the construction of a maximum security county jail at the Sheriff's Wayside Honor Rancho at Castaic, together with the necessary buildings accessory thereto, including certain equipment, furnishings, and ground improvements therefor? — BONDS YES / NO

D PROPOSED COUNTY CHARTER AMENDMENT NO. 1. Shall Section 24½ be added to Article VI of the Charter of the County of Los Angeles to provide that the County Surveyor shall be known and referred to as the County Engineer and to require that he be a registered civil engineer and that he perform all duties imposed by law on the County Surveyor, all civil engineering work for the county except that which is required on some other county officer by state law or charter, and such other duties as may be prescribed by ordinance? — YES / NO

E PROPOSED COUNTY CHARTER AMENDMENT NO. 2. Shall paragraph 13 of Section 34 of Article IX of the Charter of the County of Los Angeles be amended to authorize hearings on the discharge or reduction of an employee to be held before one or more members of the Civil Service Commission or before a hearing board or officer appointed by the commission, requiring findings to be approved by the commission where the hearing is not before the full commission, and allowing the commission to accept such findings without reading the record of the hearing or to decline to accept such findings and read the record or hold a new hearing? — YES / NO

F PROPOSED COUNTY CHARTER AMENDMENT NO. 3. Shall Paragraph 17 of Section 34 of Article IX of the Charter of the County of Los Angeles be amended to permit the giving of supplemental civil service examinations to all eligibles on their return from military service and the addition of the names of successful candidates to existing eligible lists in lieu of the present provisions which limit the giving of such examinations to veterans of World War II and prohibit the addition of names of veterans to eligible lists after January 1, 1950? — YES / NO

G PROPOSED COUNTY CHARTER AMENDMENT NO. 4. Shall Section 36½ of Article IX of the Charter of the County of Los Angeles be amended to extend the ten per cent veterans credit on open competitive civil service examinations to all persons passing the examination who have served in the armed forces of the United States in time of war, armed insurrection or international police action and are honorably discharged or whose service was honorable, removing the present limitation to members of the Army, Navy or Marine Corps and thereby extend the preference to persons who served in the Coast Guard when not a part of the Navy? — YES / NO

H PROPOSED COUNTY CHARTER AMENDMENT NO. 5. Shall Section 56½ be added to Article XII of the Charter of the County of Los Angeles to authorize the Board of Supervisors to require, upon the request of any city, district, public agency or political subdivision, any county department, officer or commission to perform any or all of the functions of any department, office or commission thereof and to contract with such city, district, public agency or political subdivision as to the terms and conditions upon which such functions are to be performed by the county, including the blanketing into county civil service, with or without examination, of any or all officers or employees who have been performing such function for such city, district, public agency or political subdivision for at least six months and for the other terms and conditions of such employment? — YES / NO

1150 PERFORATED LINE

(This number shall be torn off by precinct board member and handed to the voter)

1150

MARK CROSSES (✠) ON BALLOT ONLY WITH RUBBER STAMP, NEVER WITH PEN OR PENCIL
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)
(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

22d Congressional, 38th Senatorial, 57th Assembly District, Los Angeles County

November 6, 1956

INSTRUCTIONS TO VOTERS:

To vote for all of the electors of a party stamp a cross (✠) in the square opposite the names of the presidential and vice presidential candidates of that party. A cross (✠) stamped in the square opposite the name of a party and its presidential and vice presidential candidates, is a vote for all of the electors of that party but for no other candidates. To vote for those electors who have pledged themselves to vote for a candidate for President and for Vice President of any party not qualified to participate in the the election write in the names and party of those presidential and vice presidential candidates in the blank space provided for that purpose.

To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice Court of Appeal; or Associate Justice Court of Appeal, stamp a cross (✠) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate, stamp a cross (✠) in the voting square after the word "No" to the right of the name of that candidate.

To vote for any other candidate of your selection, stamp a cross (✠) in the voting square next to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (✠) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however the number of candidates to be elected.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure, stamp a cross (✠) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot, return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (✠) with pen or pencil.

PRESIDENT AND VICE PRESIDENT

Vote for One Party

Candidates	Office	Party
ADLAI E. STEVENSON,	for President	Democratic
ESTES KEFAUVER,	for Vice President	
DWIGHT D. EISENHOWER,	for President	Republican
RICHARD M. NIXON,	for Vice President	
ENOCH A. HOLTWICK,	for President	Prohibition
EDWIN M. COOPER,	for Vice President	
	for President	
	for Vice President	

CONGRESSIONAL

United States Senator — Vote for One

- THOMAS H. KUCHEL, Republican — United States Senator
- RAY GOURLEY, Prohibition — Business Man
- RICHARD RICHARDS, Democratic — California State Senator

Representative in Congress, Twenty-second District — Vote for One

- JOE HOLT, Republican — United States Congressman
- IRVING GLASBAND, Democratic — Business Executive

STATE LEGISLATURE

Member of the Assembly, Fifty-seventh District — Vote for One

- CHARLES J. CONRAD, Republican — Member Assembly 57th District
- CHARLES MANFRED, Democratic — Teacher

JUDICIAL

For Chief Justice of California

Shall DONALD R. WRIGHT be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice of the Supreme Court

Shall DOUGLAS L. EDMONDS be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice of the Supreme Court

Shall JOHN W. SHENK be elected to the office for the term prescribed by law? — YES / NO

For Presiding Justice, Court of Appeal, Second Appellate District, Division One

Shall PARKER WOOD be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice, Court of Appeal, Second Appellate District, Division One

Shall LOUIS C. DRAPEAU be elected to the office for the term prescribed by law? — YES / NO

For Associate Justice, Court of Appeal, Second Appellate District, Division One

Shall CLEMENT L. SHINN be elected to the office for the term prescribed by law? — YES / NO

Judge of the Superior Court, Office No. 28 — Vote for One

- JOSEPH L. CALL — Judge of the Municipal Court
- FLETCHER BOWRON — Attorney at Law

Seal 1150

MEASURES SUBMITTED TO VOTE OF VOTERS

No.	Measure	Vote
1	FOR THE VETERANS BOND ACT OF 1956. This act provides for a bond issue of five hundred million dollars ($500,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.	
	AGAINST THE VETERANS BOND ACT OF 1956. This act provides for a bond issue of five hundred million dollars ($500,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.	
2	SCHOOL BONDS. Senate Constitutional Amendment No. 11. Directs issuance and sale of $100,000,000 of state bonds to provide loans and grants to school districts for (a) school sites construction and equipment, and (b) housing and equipment for education of physically handicapped or mentally retarded minors. Authorizes legislation providing for allocation of money to school districts. Permits legislation for repayment of allocations for schools for bonds engaged or retarded minors. Requires legislation for repayment of allocations for other schools commensurate with districts ability to repay. Declares state policy regarding public school sites and buildings.	YES / NO
3	STATE CONSTRUCTION PROGRAM BONDS. Assembly Constitutional Amendment No. 17. Authorizes issuance and sale of $200,000,000 of state bonds to carry out building program contemplated by State Construction Program Bond Act of 1955. Said act provides for use of the bond money as appropriated by Legislature for buildings and building sites for state educational institutions, penal correctional institutions, and other state facilities. Directs that not less than 000,000,000 of bond proceeds shall be available for state colleges.	YES / NO
4	OIL AND GAS CONSERVATION. Initiative. Prohibits waste defined as production methods which reduce maximum economic quantity of oil or gas ultimately recoverable by good engineering practices. Provides for unit operation of pools to increase ultimate recovery on agreement of lessees and lessors of three-fourths of pool. Creates California Oil and Gas Conservation Commission to prevent waste by any necessary or proper orders, including orders limiting production but only to extent necessary to prevent waste. Provides for well spacing. Provides for pooling of spacing units in new pools. Provides commission's orders shall protect correlative rights. Provides for enforcement and administration.	YES / NO
5	ALCOHOLIC BEVERAGE ESTABLISHMENTS. Senate Constitutional Amendment No. 8. Eliminates present provision permitting service of intoxicating liquor only in bona fide hotels, restaurants and other public eating places. Authorizes legislation to permit service of alcoholic beverages in public premises in which food need not be served. Restricts presence of minors in such establishments. Incorporates existing ban on service or sale of alcoholic beverages to persons under 21.	YES / NO
6	CHURCH EXEMPTION PARKING LOTS. Assembly Constitutional Amendment No. 2. Provides that tax exemption for churches shall, until Legislature provides otherwise, extend to adjacent or noncontiguous property necessarily and reasonably needed for and used exclusively for church parking lot, if such parking lot is required by law and has not been rented or used commercially during preceding year.	YES / NO
7	STATE LEGISLATURE. Assembly Constitutional Amendment No. 68. Changes name of the Assembly of California Legislature to House of Representatives.	YES / NO
8	LEGISLATIVE BUDGET SESSIONS. Senate Constitutional Amendment No. 4. Requires budget session of Legislature to convene in February of each even-numbered year instead of March. After introduction of Budget Bill permits recess of budget session for period up to 30 days. Provides for expenses of committee members considering Budget Bill during such recess.	YES / NO
9	BOROUGH FORM OF COUNTY GOVERNMENT. Assembly Constitutional Amendment No. 68. Authorizes establishment by county charter of a borough form of government either for all or any part of unincorporated territory of county, any such borough to exercise such county powers and be administered as provided by the county charter.	YES / NO
10	STATE CIVIL SERVICE; CONTRACT ARCHITECTS AND ENGINEERS. Senate Constitutional Amendment No. 8. Provides that civil service requirements shall not prevent Legislature from adopting laws permitting State to employ private architects and engineers by contract when work cannot be performed by state agency staff within the required time.	YES / NO
11	FRAMING COUNTY CHARTERS. Assembly Constitutional Amendment No. 4. Allows one year instead of six months, for preparation of proposed county charter by board of freeholders.	YES / NO
12	STATE INDEBTEDNESS. Senate Constitutional Amendment No. 7. Sets maximum permissible term of statutory state bond issues at 50 instead of 75 years. Declares that full publicity is given to state bond propositions in ballot pamphlets prepared by Secretary of State, eliminates requirement that such propositions be published for three months in newspapers in each county. Authorizes Legislature to reduce authorized bond issue to lesser amount than that fixed by bond proposition.	YES / NO
13	REPEALING ALIEN LAND LAW. Repeal of Initiative Act, Submitted by Legislature. Repeals initiative law of 1920 which formerly denied aliens ineligible to citizenship the right to hold real estate in California.	YES / NO
14	LEGISLATIVE EMPLOYEES. Assembly Constitutional Amendment No. 8. Authorizes Legislature to provide for selection of legislative officers, attaches and employees, deleting existing limitations regarding method of hiring and amount of daily payroll during sessions.	YES / NO
15	PUBLIC WATER SUPPLIES; MUTUAL WATER COMPANIES. Senate Constitutional Amendment No. 28. Authorizes the State and each political subdivision, district and city to acquire shares of mutual water company stock for the purpose of securing public water supplies. Repeals existing provisions limiting such right to certain public agencies.	YES / NO
16	CIVIL AND CRIMINAL APPEALS. Assembly Constitutional Amendment No. 54. Deletes present time limits within which Supreme Court hearing may be ordered after decision by District Court of Appeal. Authorizes Judicial Council to fix such time limits by rule.	YES / NO
17	CONSTITUTIONAL PROVISIONS RELATING TO JUDICIARY. Assembly Constitutional Amendment No. 53. Repeals a constitutional provision which formerly regulated salaries of superior court and appellate judges. Repeals another provision dealing with the former Supreme Court Commission.	YES / NO
18	INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 63. Makes judge of a justice court eligible for office as judge of a superseding municipal court established before January 1, 1960 even though he is not an attorney, where he has served as inferior court judge continuously since November 7, 1945.	YES / NO
19	STATE BOUNDARIES. Senate Constitutional Amendment No. 13. Empowers Legislature to change, alter and redefine California's state boundaries in cooperation with adjoining states and subject to approval of Congress. Authorizes legislature to adjust property taxes as required by such boundary changes.	YES / NO

COUNTY QUESTIONS

No.	Measure	Vote
A	COUNTY BOND PROPOSITION A. Bonds for Juvenile Detention and Placement Facilities. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds in the sum of fifteen million four hundred and fifty-eight thousand dollars ($15,458,000) for the purpose of providing funds for the acquisition of land and the construction of facilities in various parts of the county for the detention, training or custodial placement of juveniles, and for uses incidental thereto including the purchase of equipment therefor?	BONDS YES / BONDS NO
B	COUNTY BOND PROPOSITION B. Bonds for the Replacement of County Hospital Facilities. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds in the sum of fifteen million four hundred thousand dollars ($15,400,000) for the purpose of providing funds for the construction of county hospital facilities containing approximately 700 beds to replace existing county hospital facilities at Harbor General Hospital, including site clearance and general improvements therefor and the purchase of equipment from any funds remaining after construction and other costs have been paid?	BONDS YES / BONDS NO
C	SPECIAL COUNTY PROPOSITION NO. 1. Shall the Board of Supervisors of the County of Los Angeles be authorized to adopt the revenue bond method of financing small boat harbor improvements and facilities for public convenience in connection therewith, as provided for by Chapter 14, Part 2, Division 2, Title III of the Government Code of the State of California?	YES / NO
D	PROPOSED COUNTY CHARTER AMENDMENT NO. 1. Shall paragraph 4 of Section 14 of Article IV of the Charter of the County of Los Angeles be amended to separate the offices of coroner and public administrator by eliminating the requirement that the public administrator shall be ex officio coroner and to also provide that the coroner shall be a physician who is a certified pathologist?	YES / NO

LOS ANGELES CITY SPECIAL MUNICIPAL ELECTION

No.	Measure	Vote
M	SALARY OF MEMBERS OF THE CITY COUNCIL LAST FIXED IN 1945. CITY OF LOS ANGELES CHARTER AMENDMENT M. Shall Section 65.1 be added to the charter to increase the salary of members of the city council from that heretofore last fixed in 1945?	YES / NO
N	SALARY OF MAYOR LAST FIXED IN 1945. CITY OF LOS ANGELES CHARTER AMENDMENT N. Shall Section 65.2 be added to the charter to increase the salary of the mayor from that heretofore last fixed in 1945?	YES / NO
O	SALARY OF CITY ATTORNEY LAST FIXED IN 1945. CITY OF LOS ANGELES CHARTER AMENDMENT O. Shall Section 65.3 be added to the charter to increase the salary of the city attorney from that heretofore last fixed in 1945?	YES / NO
P	SALARY OF CITY CONTROLLER LAST FIXED IN 1945. CITY OF LOS ANGELES CHARTER AMENDMENT P. Shall Section 65.4 be added to the charter to increase the salary of the city controller from that heretofore last fixed in 1945?	YES / NO
Q	CHANGE IN LIMITATION ON AUTHORITY OF DEPARTMENT OF WATER AND POWER TO ISSUE REVENUE BONDS. CITY OF LOS ANGELES CHARTER AMENDMENT Q. Shall subsection 6 of charter Section 220 be amended to provide that the authority of the Department of Water and Power to issue revenue bonds payable from the water or power revenue funds, subject to referendum by the voters and to disapproval by either the mayor or council, be so limited that no such bonds may be issued unless the amount of surplus derived from the operation of the works pertaining to the revenue fund involved equals at least 80 percent of the total amount of such bonds plus all outstanding bonds of the city serviced out of such revenue fund?	YES / NO
R	SOCIAL SECURITY FOR EMPLOYEES OF THE DEPARTMENT OF WATER AND POWER. CITY OF LOS ANGELES CHARTER AMENDMENT R. Shall the charter be amended by adding thereto Section 220.8, authorizing the Department of Water and Power to make available to its employees the old age and survivors insurance coverage of the Federal Social Security Act?	YES / NO
S	LIMITATION OF HEIGHT OF BUILDINGS BY FLOOR AREA RATIO INSTEAD OF BY EXISTING FIXED HEIGHT LIMIT OF 150 FEET. CITY OF LOS ANGELES CHARTER AMENDMENT S. Shall subsection 11 of Section 1 of the charter be amended to eliminate existing 150-foot fixed height restriction of buildings and to provide for and define a maximum total floor area of buildings upon a single building site of not to exceed 13 times the buildable area of the site with authority for the city council to adopt ordinances regulating the subject matter?	YES / NO

SEC. 52. Section 10335 of the Elections Code is amended to read:

10335. The ballot shall contain the same material as to candidates and measures, and shall be printed in the same order as provided for paper ballots, and may be arranged in parallel columns on one or more ballot cards as required, except that the column in which the voter marks his choices may be at the left of the names of candidates and the designation of measures. If there are a greater number of candidates for an office or for a party nomination for an office than the number whose names can be placed on one pair of facing ballot pages, a series of overlaying pages printed only on the same, single side shall be used and the ballot shall be clearly marked to indicate that the list of candidates for such office is continued on the following page or pages. If the names of candidates for such office are not required to be rotated, they shall be rotated by groups of candidates in such manner that the name of each candidate shall appear on each page of the ballot in approximately the same number of precincts as the names of all other candidates. Space shall be provided on the ballot or on a separate write-in ballot to permit voters to write in names not printed on the ballot when authorized by law. The size of the voting square and the spacing of the material may be varied to suit the conditions imposed by the use of ballot cards, provided the size of the type is not reduced below the minimum size requirements set forth in Chapter 2 (commencing with Section 10200). The statement of measure submitted to the voters may be abbreviated if necessary on the ballot, provided there is displayed in each voting booth the verbatim statement on each measure as it appears on paper ballots. Abbreviation of matters to be voted on throughout the state shall be done by the Attorney General.

SEC. 53. Section 10338 of the Elections Code is amended to read

10338. If the number of offices and measures to be voted upon at an election cannot be accommodated on one ballot card, the clerk may, at his discretion, place part of the ballot upon more than one ballot card. He may also place part of the ballot upon the ballot card or ballot cards and the remainder upon paper; provided that a single ballot measure or the candidates for a single office may not be so split

SEC. 55. Section 17023 of the Elections Code is amended to read·

17023. The register, if furnished, shall constitute another package, and, if the clerk so determines, shall be enclosed in a wrapper and sealed.

SEC 56. Section 17101 of the Elections Code is amended to read

17101. No name written upon a ballot in any election shall be counted for an office or nomination unless, pursuant to Section 57, there has been filed a declaration and the number of sponsors' certificates required, if any.

SEC. 57. Section 17140 of the Elections Code is amended to read

17140. This chapter applies to all elections, both final and primary, for which other provision is not made by law The recount of votes cast for candidates for presidential electors shall be governed by the provisions of this chapter.

SEC. 58. Section 17142 of the Elections Code is amended to read:

17142. Any time prior to the fourth day following completion of the official canvass, any candidate for an office, authorized representative of a candidate for office or, in the case of presidential electors, authorized representative of a presidential candidate to whom electors are pledged, or authorized representative of a ballot measure, may file with the clerk of a county a declaration requesting a recount of the votes cast for all candidates for the office, for presidential electors, or for the measure, in all precincts in that county wherein votes were cast for the office, presidential electors, or measure. The declaration may specify the order in which the precincts shall be recounted.

SEC. 59. Section 17143 of the Elections Code is amended to read:

17143. The candidate or authorized representative requesting the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the clerk such sum as the clerk requires to cover the cost of the recount for that day. The money deposited shall be returned to the depositor if, upon the completion of the recount, the candidate or slate of presidential electors for whom a declaration is filed, or the measure for which the declaration is filed, is found to have received the plurality of the votes cast. If the candidate, slate, or measure has not received the plurality of the votes cast, the depositor shall be entitled to the return of any money deposited in excess of the cost of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

SEC. 60. Section 17144 of the Elections Code is amended to read:

17144. The clerk shall post a notice and shall notify all candidates or authorized representatives of the date and place of the recount.

SEC. 61. Section 17147 of the Elections Code is amended to read:

17147. In counties using punchcard voting systems, or electronic or electromechanical vote-tabulating devices, the candidate or authorized representative making the request for recount may select whether the recount shall be conducted manually or mechanically.

SEC. 62. Section 17148 of the Elections Code is amended to read:

17148. All ballots, whether voted or not, and any other relevant material may be examined as part of any recount, if the candidate or authorized representative so requests.

SEC. 63. Section 17150 of the Elections Code is amended to read:

17150. In lieu of the returns of the precinct board, on the completion of the recount there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of that precinct for the office, slates of presidential electors, or measure involved in the recount. The results of any recount which is not completed by counting the votes in each and every precinct in which votes were cast within the county affected for the office, slates of presidential electors, or measure shall be declared null and void.

SEC. 63.5. Section 20002 is added to the Elections Code, to read:

20002. In a contest of the election of presidential electors such action or appeal shall have priority over all other civil matters. Final determination and judgment shall be rendered at least six days before the first Monday after the second Wednesday in December.

SEC. 63.7. Section 20051 of the Elections Code is amended to read:

20051. The contestant shall verify the statement of contest, as provided by Section 446 of the Code of Civil Procedure, and shall file it within the following times after the declaration of the result of the election by the body canvassing the returns thereof:

(a) In cases other than cases of a tie, where the contest is brought on any of the grounds mentioned in subdivision (c) of Section 20021, six months.

(b) In all cases of tie, 20 days.

(c) In cases involving presidential electors, 10 days.

(d) In all other cases, 30 days.

SEC. 64. Section 22830 of the Elections Code is amended to read:

22830. Not earlier than the 89th nor later than the 75th day before any municipal election to fill offices, the city clerk shall publish a notice of the election in the city pursuant to Section 6061 of the Government Code. The notice shall be headed "Notice of Election," and shall contain a statement of:

(a) The time of the election;

(b) The offices to be filled, specifying full term or short term, as the case may be.

If there is no newspaper of general circulation published and circulated in the city, the notice shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city.

SEC. 65. Section 22837 of the Elections Code is amended to read:

22837. The signatures to each nomination paper shall be appended on the same sheet of paper, and each signer shall add his place of residence, giving the street and number, if any, otherwise such designation of his place of residence as will enable its location to be readily ascertained.

SEC. 66. Section 22840 of the Elections Code is amended to read:

22840. All nomination papers shall be filed with the city clerk during regular business hours not later than 12 o'clock noon on the 68th day before the election. Until that time, but no later than then, a candidate may withdraw his nomination paper after it is filed with the city clerk as provided in this section.

SEC. 67. Section 22841 of the Elections Code is amended to read:

22841. The nomination papers and affidavits shall be substantially in the following form:

NOMINATION PAPER

We, the undersigned voters of the _____ of _____ hereby nominate _____ for the office of _____ of said

city·

	Name	Residence
—	_____	_____
—	_____	_____
—	_____	_____

AFFIDAVIT OF CIRCULATOR

State of California
County of _____ } ss

_____, being duly sworn deposes and says· That he circulated the foregoing petition and saw all the signatures appended thereto and that to the best of his knowledge and belief they are the signatures of the persons whose names they purport to be. The signatures were obtained between _____ 19__ and _____ 19__

_____
(Signature of circulator)

_____

Subscribed and sworn to before me the _____ day of _____, 19__.

_____
Notary Public in and for the County of _____. State of California

AFFIDAVIT OF NOMINEE

State of California
County of _____ } ss.

_____ being duly sworn, says that he is the above-named nominee for the office of _____, that he will accept the office in the event of his election, that he desires his name to appear on the ballot as follows:

_____
(Print name above),

and that he desires the following designation to appear on the ballot under his name:

_____
(Print desired designation above)

Subscribed and sworn to before me the _____ day of _____, 19__.

_____
Notary Public in and for the County of _____, State of California

SEC. 68. Section 22930 of the Elections Code is amended to read:

22930. The votes shall be counted, the result of the votes cast shall be posted, the supplies and records of the election shall be returned to the city clerk and shall be disposed of by the city clerk in accordance with the provisions of this code governing elections generally, so far as they may be applicable.

SEC. 69. Section 22942.5 of the Elections Code is amended to read:

22942.5. On recount, ballots may be challenged pursuant to Section 17149.

SEC. 70. Section 23306 of the Elections Code is amended to read:

23306. In case of the consolidation of any election called by the legislative body of a city, district or other political subdivision with an election held in the county or counties in which the city, district or other political subdivision is situated, the governing body of the city, district or other political subdivision may authorize the board of supervisors to canvass the returns of the election. If this authority is given:

(a) The election shall be held in all respects as if there were only one election.

(b) Only one form of ballot shall be used.

(c) The returns of the election need not be canvassed by the legislative body of the authorizing city, district or other political subdivision.

If such authority is given to the board of supervisors, the canvass shall be made in accordance with the provisions of Division 12 (commencing with Section 17000).

SEC. 71. Section 23512.2 of the Elections Code is amended to read:

23512.2 The nomination form shall be substantially in the following form:

OFFICIAL FILING PETITION

Nomination of Candidate

We, the undersigned voters of the _____ District,
(Name of district)

hereby nominate _____ for the office of _____
(Name of candidate) (Office)

of said _____ District.
(Name of district)

Name	Residence
_____	_____
_____	_____
_____	_____

SEC. 72. Section 23512.4 of the Elections Code is amended to

read:

23512.4. The affidavit of the nominee shall be substantially in the following form:

Affidavit of Nominee

State of California }
County of _____ } ss.

_____, under penalty of perjury, says that he is
(Name of nominee)
the above-named nominee for the office of _____, that he will accept the office in the event of his election,
(Office)
that he desires his name to appear on the ballot as follows:

_____
(Print name above)

that he desires the following occupational designation to appear on the ballot under his name.

_____
(Print desired designation, if any, above)

_____
(Signature of nominee)

SEC 73. Section 23512.8 of the Elections Code is amended to read:

23512.8. The affidavit of the circulator shall be substantially in the following form.

Affidavit of Circulator

State of California }
County of _____ } ss.

_____, under penalty of perjury, says:
(Name of circulator)

That I circulated the foregoing petition and saw all the signatures appended thereto and that to the best of my knowledge and belief they are the signatures of the persons whose names they purport to be. The signatures were obtained between _____ 19__ and _____ 19__.

_____
(Signature of circulator)

_____
(Circulator's voting address)

_____
(Date)

SEC. 74 Section 23521 of the Elections Code, as added by Chapter 421 of the Statutes of 1973, is amended and renumbered to read:

23521.5. Notwithstanding the provisions of Section 23512, if nomination papers for an incumbent elective officer of a district are not filed by 5 o'clock p.m. on the 64th day before the general district election, the voters shall have until 5 o'clock p.m. on the 60th day before the election to nominate candidates other than the incumbent for such elective office.

SEC. 75. Section 23527.5 of the Elections Code is amended to read:

23527.5. At least 35 days prior to the date fixed for the landowner district election, the secretary of a landowner district for which an election has not been canceled pursuant to Section 23520, shall deliver to the county clerk of each affected county a list of voters qualified under the principal act of that district to vote in that county at the next landowner district election. For this purpose the secretary of a landowner voting district shall be entitled to obtain from any office of an affected county all information necessary to prepare the list.

The list shall contain the name of each voter qualified under the principal act of the landowner voting district to vote at the next landowner district election, the residence of each such voter, the division, if any, of the district in which each such voter is entitled to vote, and the manner in which the votes are to be distributed.

The secretary of the landowner district shall sign his name and affix the seal of the district at the bottom of the last page of the list. One copy of this list shall be conspicuously posted in the office of the district in a place to which the public generally has access. If the office is located in a private home, the list shall be posted in some public building.

The governing board may, by resolution, determine that the duties of the secretary set forth in this section would best be performed by the county clerk, in which case the county clerk shall thereafter assume such duties.

SEC. 76. Section 23540.5 of the Elections Code is amended to read:

23540.5. Candidates' statements of their qualifications submitted in accordance with Section 10012 of this code shall be filed with the county clerk who shall cause the voters' pamphlet, if any is required, to be mailed along with the notice required by Section 23540.

SEC. 77. Section 23550 of the Elections Code is amended to read:

23550. The county clerk shall commence the canvass of the returns not later than the first Thursday after each general district election.

SEC. 78. Section 23557.5 of the Elections Code is amended to read:

23557 5. A mailed-ballot election may not be consolidated with any other election unless the other election is also being conducted

by all-mailed ballot and no mailed-ballot election may be held on one of the regular election days set forth in Chapter 1 (commencing with Section 2500) of Division 4.

SEC. 79. Section 25100 of the Elections Code is amended to read:

25100. The term "elector" or "presidential elector" as used in this chapter means an elector of President and Vice President of the United States and not an elector as defined in Section 17.

SEC. 80. Section 29640 of the Elections Code is amended to read:

29640. Every person is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in county jail not exceeding one year, who:

(a) Not being entitled to vote at an election, fraudulently votes or fraudulently attempts to vote at that election.

(b) Being entitled to vote at an election, votes more than once, attempts to vote more than once, or knowingly hands in two or more ballots folded together at that election.

(c) Impersonates or attempts to impersonate a voter at an election.

SEC. 81. Section 275 of the Government Code is repealed.

SEC. 82. Section 1780 of the Government Code, as amended by Chapter 189 of the Statutes of 1977, is amended to read:

1780. (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled as provided in this section. The remaining district board members may fill the vacancy by appointment until the next district general election that is scheduled 90 or more days after the effective date of the vacancy, provided the appointment is made within a period of 60 days immediately subsequent to the effective date of such vacancy and provided a notice of the vacancy is posted in three or more conspicuous places in the district at least 15 days before the appointment is made. In lieu of making an appointment the remaining members of the board may within 60 days of the vacancy call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after the vacancy occurs.

(b) If the vacancy is not filled by the district board as specified, or if the board has not called for an election within 60 days of the vacancy, the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may fill the vacancy within 90 days of the vacancy, or the city council or county supervisors may order the district to call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after the vacancy occurs.

(c) If within 90 days of the vacancy the remaining members of the board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, the district shall call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after the vacancy occurs.

(d) Persons appointed to fill a vacancy shall hold office until the next district general election and thereafter until the person elected at such election to fill the vacancy has been qualified, but persons elected to fill a vacancy shall hold office for the unexpired balance of the term of office.

SEC. 83. Section 12172 of the Government Code, as added by Chapter 1119 of the Statutes of 1975, is amended and renumbered to read:

12172.5 The Secretary of State is the chief elections officer of the state, and shall administer the provisions of the Elections Code. The Secretary of State shall see that elections are efficiently conducted and that state election laws are enforced. The Secretary of State may require elections officers to make reports concerning elections in their jurisdictions.

If, at any time, the Secretary of State concludes that state election laws are not being enforced, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General. In these instances, the Secretary of State may assist the county elections officer in discharging his duties.

The Secretary of State may adopt regulations to assure the uniform application and administration of state election laws.

SEC. 84. Section 23365 of the Government Code is repealed.

SEC. 85. Section 23365 is added to the Government Code, to read:

23365. The clerk of the principal county shall furnish to the officers of each precinct the supplies and equipment as provided for in Sections 14005 and 14007 of the Elections Code. The clerk of each other affected county from which territory is proposed to be taken for the proposed county shall provide to the officers of each precinct the indexes of registration for the precincts of the proposed county within their respective county. In addition, the clerk may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures.

SEC. 86. Section 23366 of the Government Code is repealed.

SEC. 87. Section 34460 of the Government Code is amended to read:

34460. Petitions for the submission of any amendment or petitions for the repeal of a charter shall be filed with the governing body of the city or city and county not less than 90 days prior to a statewide general election and not more than one year after the date of the first signature affixed thereon. The signatures on such petitions

shall be verified by the authority having charge of the registration records of the city or city and county, and the expenses of such verification shall be provided by the governing body thereof. The signatures may be verified by means of the random sampling technique as provided for in Elections Code Section 3708.

SEC. 88. Section 34902 of the Government Code is amended to read:

34902. (a) If a majority of the votes cast on the proposition is for it, the office of mayor shall thereafter be an elective office, except as provided in subdivision (b). At the next succeeding general municipal election held in the city one of the offices of city councilman, to be filled at such election, shall be designated as the office of mayor, to be filled at such election. The person elected at such election as mayor shall hold office from the Tuesday succeeding his election, and until his successor is elected and qualifies.

In the case of a vacancy in the office of the mayor for any reason, the council shall fill the vacancy by appointment. If the council fails to fill it within 30 days, it shall call an election to fill the vacancy to be held on the next established election date to be held not less than 90 days thereafter. A person appointed or elected to fill a vacancy shall hold office for the unexpired term of the former incumbent.

(b) After an office of elective mayor has been established, the city council may subsequently submit to the electors the question of whether or not to eliminate the elective office of mayor, pursuant to the procedures enumerated in this article, and thereby reestablish the procedure of selection of the mayor by the city council. If a majority of the votes cast on such proposition are in favor of the elimination of the office of elective mayor, such office shall be eliminated on the expiration date of the incumbent's term, and on such date the procedure of selection of the mayor by the city council shall be reestablished.

SEC. 89. Section 36512 of the Government Code is amended to read:

36512. The city council shall take the action specified by this section to fill any vacancy occurring in the offices provided for in this chapter. If the vacancy is in an appointive office, the council shall fill the vacancy by appointment. If the vacancy is in an elective office, the council shall, within 30 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. Such a special election shall be held on the next regularly established election date not less than 90 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

SEC. 90. Section 36512.1 of the Government Code is amended to read:

36512.1. Notwithstanding the provisions of Section 36512, a city may enact an ordinance requiring that a special election be called immediately to fill every city council vacancy. The ordinance shall

provide that the special election shall be held on the next regularly established election date not less than 90 days from the call of the special election A city may also enact an ordinance requiring that a special election be held to fill a city council vacancy when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 90 days from the filing of the petition. However, a governing body which has enacted such an ordinance may also call a special election pursuant to Section 36512 without waiting for the filing of a petition.

SEC. 91. Section 36512.2 of the Government Code is amended to read:

36512.2. Notwithstanding the provisions of Section 36512, a city may enact an ordinance providing that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. Such a special election may be held on the date of the next regularly scheduled election to be held throughout the city not less than 90 days from the call of the special election, unless such an election date falls more than 270 days from the call of the special election, in which case the special election shall be held on the next regularly established election date not less than 90 days from the call of the special election.

SEC. 93. Section 4 of Chapter 1119 of the Statutes of 1975 is repealed.

SEC. 94. Any section of any act enacted by the Legislature in 1977 at the 1977–78 Regular Session of the Legislature which amends or repeals a section of the Education Code amended by Sections 1 to 25, inclusive, of this act and which is chaptered either before or after this act is chaptered shall prevail over this act.

SEC. 95. Sections 45 and 46 of this bill shall become operative only if A.B. 1135 of the 1977–78 Regular Session is enacted amending Section 8660 of the Elections Code and takes effect January 1, 1978, in which case Section 8660 of the Elections Code as added by Section 44 of this bill shall not become operative.

CHAPTER 1206

An act to amend Section 12553 of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 12553 of the Welfare and Institutions Code is amended to read:

12553. Notwithstanding Section 12552, special circumstances shall also include the administration and payment by the department pursuant to this section of a recurring special need allowance for dog food of thirty dollars ($30) per month to every blind recipient who has a guide dog

The department shall mail an application for such allowance to every blind recipient. The application shall be upon a standard form prescribed by regulations of the department and containing a written declaration that the affirmation is made under penalty of perjury subject to prosecution as the crime of perjury under the Penal Code. The recipient or if incapable, another person as described in Section 11054 may make such affirmation. The department shall grant the special need allowance upon the basis of the affirmation by mailing a monthly warrant of thirty dollars ($30) to the recipient.

The county welfare department shall cooperate in assisting the recipient in completing his application for the special need allowance contained in this section.

SEC. 2 The sum of twenty-two thousand dollars ($22,000) is hereby appropriated from the General Fund to the Department of Benefit Payments to carry out the provisions of this act

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CHAPTER 1207

An act to amend Sections 2123.3 and 2458 of, and to add Sections 2450.5, 2458.1, and 2458.5 to, the Business and Professions Code, relating to healing arts

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 2123 3 of the Business and Professions Code is amended to read:

2123.3. A medical quality review committee is hereby created for each of the districts established by Section 2123 2 Each committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of

whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 40 members, 24 of whom shall hold valid physician's and surgeon's certificates, eight of whom shall be public members, and eight of whom shall be nonphysician licentiates of a healing arts board.

(*l*) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of

whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three physician members, one public member, and one member who is a licentiate of a healing arts board other than the Board of Medical Quality Assurance for the purposes of hearing and deciding cases before a committee Three members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of three members of a panel to decide any case, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee, such majority constituting at least a majority of a minimum quorum for a committee, to decide any case, pass any measure, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

SEC. 1.5. Section 2450.5 is added to the Business and Professions Code, to read:

2450.5. Notwithstanding Section 2451, all physician and surgeon certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners, shall expire on February 28, 1978, and thereafter shall expire at 12 midnight on the legal birth date of the licensee during the second year of a two-year term if not renewed

The Division of Licensing shall establish by regulation procedures for the administration of the birth date renewal program, including, but not limited to, the establishment of a pro rata formula for the payment of fees by licentiates affected by the implementation of such program and the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire annually.

To renew an unexpired license, the licensee shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the Division of Licensing or the Division of Allied Health Professions, as the case may be, and pay the prescribed renewal fee.

SEC. 2. Section 2458 of the Business and Professions Code is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with physician's and surgeon's certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed

by the board at an amount not to exceed one hundred dollars ($100) nor less than fifteen dollars ($15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed by the board at a sum not in excess of one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 (commencing with Section 2210) shall pay an application fee of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed by the board at a sum not in excess of forty dollars ($40) nor less than five dollars ($5) for the issuance of the certificate.

(d) The initial license fee shall be fixed by the board until January 1, 1982, at a sum not in excess of two hundred dollars ($200), except that if the certificate will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the board. Any physician and surgeon enrolled in an approved residency program shall be required to pay only 50 percent of the initial license fee fixed by the board.

(e) The biennial renewal fee shall be fixed by the board at a sum not in excess of two hundred dollars ($200) until January 1, 1982. Any physician and surgeon enrolled in an approved residency program shall be required to pay only 50 percent of the initial biennial renewal fee fixed by the board.

(f) The delinquency fee is twenty-five dollars ($25) until January 1, 1982.

(g) The duplicate certificate fee is two dollars ($2).

(h) The endorsement fee is five dollars ($5).

SEC. 3. Section 2458.1 is added to the Business and Professions Code, to read:

2458.1. The fees in this article fixed by the board shall be set forth as regulations duly adopted by the Division of Licensing or the Division of Allied Health Professions.

SEC. 4. Section 2458.5 is added to the Business and Professions Code, to read:

2458.5. The Department of Consumer Affairs shall report to the Legislature by March 1, 1979, as to the feasibility of General Fund support for the enforcement activities of healing arts boards under the department pursuant to enforcement of health care quality standards.

CHAPTER 1208

An act to amend Sections 22, 54, 301, 2000, 2013, 3039, 3504, 3513, 3801.6, 4150, 4758, 4759, 4850, 5000, 12154, 12155, 12156, 12161, 12162, and 12164 of the Fish and Game Code, relating to fish and game.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION. 1. Section 22 of the Fish and Game Code is amended to read:

22. "Bird" means any wild bird or any part thereof.

SEC. 2. Section 54 of the Fish and Game Code is amended to read:

54. "Mammal" means any wild or feral mammal or any part thereof, but not any wild, feral, or undomesticated burro.

SEC. 3. Section 301 of the Fish and Game Code is amended to read.

301. The commission may make such regulations as it deems necessary for the disposition of birds or mammals and parts thereof which are killed accidentally.

SEC. 4. Section 2000 of the Fish and Game Code is amended to read:

2000. It is unlawful to take any bird, mammal, fish, reptile, or amphibian except as provided in this code or regulations made pursuant thereto. Possession of a bird, mammal, fish, or reptile or parts thereof in or on the fields, forests, or waters of this state, or while returning therefrom with fishing or hunting equipment is prima facie evidence the possessor took the bird, mammal, fish or reptile or parts thereof

SEC. 5. Section 2013 of the Fish and Game Code is amended to read:

2013. Unless otherwise provided, the provisions of this code relating to the possession of birds, mammals, fish, reptiles, amphibia, or parts thereof apply to birds, mammals, fish, reptiles, amphibia, or parts thereof taken either in or outside of this state.

SEC. 6. Section 3039 of the Fish and Game Code is amended to read:

3039. Except as provided in Sections 3087 and 4303, it is unlawful to sell or purchase any bird or mammal or part thereof taken under a hunting license

SEC. 7. Section 3504 of the Fish and Game Code is amended to read:

3504. Subject to the provisions of this code permitting the sale of domestically raised game birds, it is unlawful to sell or purchase any game bird or nongame bird or part thereof.

SEC. 8. Section 3513 of the Fish and Game Code is amended to read:

3513. It is unlawful to take or possess any migratory nongame bird

as designated in the Migratory Bird Treaty Act or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.

SEC 9 Section 3801 6 of the Fish and Game Code is amended to read:

3801.6. Except as otherwise provided in this code or regulations made pursuant thereto, it is unlawful to possess the carcass, skin, or parts of any nongame bird. The carcass, skin, or parts of any nongame bird possessed by any person in violation of any of the provisions of this code shall be seized by the department and delivered to a scientific or educational institution.

SEC. 10. Section 4150 of the Fish and Game Code is amended to read:

4150 All mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals, are nongame mammals. Nongame mammals or parts thereof may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission

SEC. 11. Section 4758 of the Fish and Game Code is amended to read·

4758. Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase the meat, skin, hide, teeth, claws, or other parts of any bear in this state.

SEC. 12. Section 4759 of the Fish and Game Code is amended to read:

4759. The skin, hide, teeth, claws, or other parts of any bear lawfully taken and possessed for the period provided in Section 4757 may be tanned or utilized for personal use only. Notwithstanding the provisions of Section 4757, the skin, hide, teeth, claws, or other parts of any bear lawfully taken may be donated any time to veterans' organizations or veterans' service committees for use by veterans for rehabilitation purposes. The donor shall obtain a receipt which shall be retained during the period stipulated by Section 4757.

SEC. 13. Section 4850 of the Fish and Game Code is amended to read:

4850. Notwithstanding any provisions of Section 3950, mountain lions are not game mammals

It is unlawful to take, injure, possess, transport, import, or sell any mountain lion or parts thereof, except as otherwise provided in this chapter, Article 1 5 (commencing with Section 1000) of Chapter 3 of Division 2, or Section 3005.5, or except as authorized under a domestic game breeder's license.

Any violation of this section is a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one year or a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 14. Section 5000 of the Fish and Game Code is amended to read:

5000. It is unlawful to sell, purchase, harm, take, possess, or transport any tortoise (Gopherus) or parts thereof, or to shoot any projectile at a torto se (Gopherus). This section does not apply to the taking of any tortoise when authorized by the department.

SEC. 15. Section 12154 of the Fish and Game Code is amended to read:

12154. Upon the third conviction of any person of a violation of any provision of this code or regulation made pursuant thereto relating to the taking or possession of fish or parts thereof in any five-year period, and upon any conviction subsequent to the three convictions during such five-year period, the department may recommend to the commission that such person be prohibited from taking any fish or amphibia. The commission may prohibit such person from taking any fish or amphibia for not to exceed three years from the date of the last conviction, and the sport fishing license of such person, if he has one, may be forfeited and no sport fishing license shall be issued such person during such period of prohibition For the purpose of this section forfeiture of bail shall constitute a conviction.

It shall be unlawful for any person to obtain a sport fishing license during such period of prohibition.

SEC. 16. Section 12155 of the Fish and Game Code is amended to read:

12155. Upon the third conviction of any person of a violation of any provision of this code or regulation made pursuant thereto relating to the taking or possession of birds or mammals or parts thereof in any five-year period, and upon any conviction subsequent to the three convictions during such five-year period, the department may recommend to the commission that such person be prohibited from taking any birds or mammals. The commission may prohibit such person from taking any birds or mammals for not to exceed three years from the date of the last conviction, and the hunting license of such person, if he has one, may be forfeited and no hunting license shall be issued such person during such period of prohibition. For the purpose of this section forfeiture of bail shall constitute a conviction

It shall be unlawful for any person to obtain a hunting license during such period of prohibition.

SEC. 17. Section 12156 of the Fish and Game Code is amended to read:

12156. The license of any person to take fur-bearing mammals shall be forfeited upon his violating any provision of this code or regulation made pursuant thereto relating to the taking or possession of fur-bearing mammals or parts thereof.

SEC. 18. Section 12161 of the Fish and Game Code is amended to read:

12161. The judge before whom any person is tried for taking, possession, selling, or transporting birds, mammals, fish, reptiles, or amphibia or parts thereof contrary to the laws of this state shall upon the conviction of the accused make an order forfeiting and disposing of the birds, mammals, fish, reptiles, or amphibia or parts thereof in

accordance with the provisions of Section 12160. However, if the birds, mammals, fish, reptiles, or amphibia or parts thereof may not be sold lawfully or have a current market value of less than one hundred dollars ($100), the judge may at his discretion order that they be donated to a state, county, city, or any charitable institution, or that they be destroyed.

SEC 19. Section 12162 of the Fish and Game Code is amended to read·

12162. Any seizure of any birds, mammals, fish, reptiles, or amphibia or parts thereof made under circumstances wherein it cannot be determined who took, possessed, sold, or transported them contrary to law may be sold or donated to a state, county, city, city and county, or any charitable institution.

SEC. 20 Section 12164 of the Fish and Game Code is amended to read:

12164. The court before whom any person has been convicted of trespassing under Section 602 of the Penal Code shall, in addition to any other fine or forfeiture imposed, confiscate any bird or mammal or parts thereof taken while trespassing, and shall dispose of the bird or mammal or parts thereof to a charitable institution or cause it to be destroyed if unfit for human consumption.

SEC. 21. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1209

An act to amend Section 41603 of the Health and Safety Code, relating to air pollution

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 41603 of the Health and Safety Code is amended to read:

41603. Each district shall adopt a program to implement the air pollution control plan of the air basin in which the district is located, within 90 days after the adoption or revision of the plan by the basinwide air pollution council or basinwide district, as the case may be.

The program shall be revised upon request of the state board or,

if necessary, whenever there is a revision of the basinwide air pollution control plan. The district shall submit its adopted or revised program to the state board within 10 days after the adoption of the program or revised program.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed upon local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1210

An act to amend Section 6031.4 of the Penal Code, relating to local detention facilities.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 6031.4 of the Penal Code is amended to read:

6031.4. (a) For the purpose of this title, "local detention facility" means any city, county, city and county, or regional facility used for the confinement for more than 24 hours of adults, or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors.

(b) In addition to those provided for in subdivision (a), for the purposes of this title, "local detention facility" also includes any city, county, city and county, or regional facility, constructed on or after January 1, 1978, used for the confinement, regardless of the length of confinement, of adults or of both adults and minors, but does not include that portion of a facility for the confinement of both adults and minors which is devoted only to the confinement of minors.

CHAPTER 1211

An act to add Section 4229.5 to the Business and Professions Code, and to add Section 11201 to the Health and Safety Code, and to add Section 14105.7 to the Welfare and Institutions Code, relating to pharmacy.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 4229.5 is added to the Business and Professions Code, to read:

4229.5. A prescription for a dangerous drug may be refilled without the prescriber's authorization if the prescriber is unavailable to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription might present an immediate hazard to the patient's health and welfare or might result in intense suffering. The pharmacist shall refill only a reasonable amount sufficient to maintain the patient until the prescriber can be contacted. The pharmacist shall note on the reverse side of the prescription the date and quantity of the refill and that the prescriber was not available and the basis for his judgment to refill the prescription without the prescriber's authorization The pharmacist shall inform the patient that the prescription was refilled without the prescriber's authorization, indicating that the prescriber was not available and that, in the pharmacist's professional judgment, failure to provide the drug might result in an immediate hazard to the patient's health and welfare or might result in intense suffering The pharmacist shall inform the prescriber within a reasonable period of time. Prior to refilling a prescription pursuant to this section, the pharmacist shall make every reasonable effort to contact the prescriber.

The prescriber shall not incur any liability as the result of a refilling of a prescription pursuant to this section.

SEC. 2. Section 11201 is added to the Health and Safety Code, to read:

11201 A prescription for a controlled substance, except those appearing in schedule II, may be refilled without the prescriber's authorization if the prescriber is unavailable to authorize the refill and if, in the pharmacist's professional judgment, failure to refill the prescription might present an immediate hazard to the patient's health and welfare or might result in intense suffering. The pharmacist shall refill only a reasonable amount sufficient to maintain the patient until the prescriber can be contacted. The pharmacist shall note on the reverse side of the prescription the date and quantity of the refill and that the prescriber was not available and the basis for his judgment to refill the prescription without the prescriber's authorization The pharmacist shall inform the patient that the prescription was refilled without the prescriber's authorization, indicating that the prescriber was not available and that, in the pharmacist's professional judgment, failure to provide the drug might result in an immediate hazard to the patient's health and welfare or might result in intense suffering. The pharmacist shall inform the prescriber within a reasonable period of time. Prior to refilling a prescription pursuant to this section, the pharmacist shall make every reasonable effort to contact the prescriber

The prescriber shall not incur any liability as the result of a refilling

of a prescription pursuant to this section.

SEC. 3. Section 14105.7 is added to the Welfare and Institutions Code, to read:

14105.7. The director shall limit the rate of payment for the professional fee portion of prescription services rendered under this chapter pursuant to Section 4229.5 of the Business and Professions Code or Section 11201 of the Health and Safety Code and the professional fee portion of prescription services rendered as a refill immediately subsequent to such prescription to ensure that the total professional fee paid for the two services does not exceed the professional fee paid for the same prescription refill when provided as a routine service.

CHAPTER 1212

An act to add Section 4390.1 to the Business and Professions Code, relating to prescriptions.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 4390.1 is added to the Business and Professions Code, to read:

4390.1. No person other than a physician, dentist, podiatrist, veterinarian, pharmacist, or other person authorized by law to dispense, administer, or prescribe controlled substances, or the person's agent acting under authorization by the person to print prescription blanks, and acting in the regular practice of the person's profession, shall knowingly and willfully manufacture, copy, or reproduce, or cause to be manufactured, copied or reproduced, any prescription blank which purports to bear the name, address, and federal registry or other identifying information of a physician, dentist, podiatrist, veterinarian, or other person authorized by law to dispense, administer, or prescribe controlled substances.

Every person who violates the provisions of this section shall be guilty of a misdemeanor.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1213

An act to amend Sections 82013 and 84300 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 82013 of the Government Code is amended to read:

82013 "Committee" means any person or combination of persons who directly or indirectly receives contributions or makes expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party, whether national, state or local, if:

(a) Contributions received total five hundred dollars ($500) or more in a calendar year;

(b) Independent expenditures total five hundred dollars ($500) or more in a calendar year, or

(c) Contributions made to or at the behest of candidates and committees total five thousand dollars ($5,000) or more in a calendar year.

SEC 2. Section 84300 of the Government Code is amended to read:

84300. No contribution or expenditure of fifty dollars ($50) or more shall be made in cash Any contribution of fifty dollars ($50) or more other than an in-kind contribution shall be made by a written instrument containing the name of the donor and the name of the payee. The value of all in-kind contributions of fifty dollars ($50) or more must be reported in writing by the contributor to the recipient.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code

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CHAPTER 1214

An act to amend Section 1316 of the Health and Safety Code, relating to health facilities

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 1316 of the Health and Safety Code is amended to read:

1316. (a) The rules of a health facility shall include provisions for use of the facility by, and staff privileges for, duly licensed podiatrists within the scope of their respective licensure, subject to rules and regulations governing such use or privileges established by the health facility Such rules and regulations shall not discriminate on the basis of whether the staff member holds a M.D., D.O , or D.P.M. degree, within the scope of their respective licensure. Each health facility shall establish a staff comprised of physicians and surgeons, podiatrists, or any combination thereof, which shall regulate the admission, conduct suspension, or termination of the staff appointment of the podiatrists while using the facilities. No classification of health facilities by the state department, nor any other classification of health facilities based on quality of service or otherwise, by any person, body, or governmental agency of this state or any subdivision thereof shall be affected by a health facility's provision for use of its facilities by duly licensed podiatrists, nor shall any such classification be affected by the subjection of the podiatrists, to the rules and regulations of a staff comprising podiatrists, physicians and surgeons, or any combination thereof, which govern the podiatrists' use of the facilities. No classification of health facilities by any governmental agency of this state or any subdivision thereof pursuant to present law or laws passed hereinafter for the purposes of ascertaining eligibility for compensation, reimbursement, or other benefit for treatment of patients shall be affected by a health facility's provision for use of its facilities by duly licensed podiatrists, nor shall any such classification be affected by the subjection of the podiatrists and dentists to the rules and regulations of a staff comprising podiatrists, physicians and surgeons, or any combination thereof, which govern the podiatrists' use of the facilities.

With regard to the practice of podiatry in health facilities throughout this state medical staff status shall include and provide for the right to pursue and practice full clinical and surgical privileges for holders of M.D., D.O., and D.P.M. degrees within the scope of their respective licensure. Such rights and privileges shall be limited or restricted only upon the basis of an individual practitioner's demonstrated competence. Such competence shall be determined by health facility rules, regulations, and procedures which are necessary and are applied in good faith, equally and in a nondiscriminatory manner, to all practitioners regardless of whether they hold a M.D., D.O., or D.P.M. degree.

Nothing in this section shall be construed to require a health facility to offer a specific health service or services not otherwise offered. If a health service is offered, the facility shall not discriminate between persons holding M.D., D.O., or D.P.M. degrees who are authorized by law to perform such services.

This subdivision shall not prohibit a health facility which is a clinical teaching facility owned or operated by a university operating

a school of medicine from requiring that a podiatrist have a faculty teaching appointment as a condition for eligibility for staff privileges for that facility

(b) The rules of a health facility which include provisions for use of the facility by, and staff privileges for, medical staff shall not discriminate on the basis of whether the staff member holds a M.D., D O., or D.P.M. degree, within the scope of their respective licensure The health facility staff processing, reviewing, evaluating, and determining qualifications for staff privileges for medical staff shall include, if possible, staff members that hold M.D., D.O., and D.P.M degrees.

(c) Any violation by a health facility of the provisions of this section may be enjoined in an action brought in the name of the people of the State of California by the district attorney of the county in which the health facility is located, upon receipt of a complaint by an aggrieved physician and surgeon or podiatrist.

CHAPTER 1215

An act to amend Section 6413 of, and to add Sections 6304 2, 6304.3, and 6304 4 to, the Labor Code, relating to state prisoners.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 6304.2 is added to the Labor Code, to read:

6304 2. Notwithstanding Section 6413, and except as provided in Sections 6304.3 and 6304.4, any state prisoner engaged in correctional industry, as defined by the Department of Corrections, shall be deemed to be an "employee," and the Department of Corrections shall be deemed to be an "employer," with regard to such prisoners for the purposes of this part.

SEC. 2. Section 6304 3 is added to the Labor Code, to read:

6304.3. (a) A Correctional Industry Safety Committee shall be established in accordance with Department of Corrections administrative procedures at each facility maintaining a correctional industry, as defined by the Department of Corrections. The Division of Industrial Safety shall promulgate, and the Department of Corrections shall implement, regulations concerning the duties and functions which shall govern the operation of each such committee.

(b) All complaints alleging unsafe or unhealthy working conditions in a correctional industry shall initially be directed to the Correctional Industry Safety Committee of the facility prison. The committee shall attempt to resolve all complaints.

If a complaint is not resolved by the committee within 15 calendar days, the complaint shall be referred by the committee to the

division where it shall be reviewed. When the division receives a complaint which, in its determination, constitutes a bona fide allegation of a safety or health violation, the division shall summarily investigate the same as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, as defined in Section 6309, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation.

(c) Except as provided in subdivision (b) and in Section 6313, the inspection or investigation of a facility maintaining a correctional industry, as defined by the Department of Corrections, shall be discretionary with the division.

(d) Notwithstanding Section 6321, the division may give advance notice of an inspection or investigation and may postpone the same if such action is necessary for the maintenance of security at the facility where the inspection or investigation is to be held, or for insuring the safety and health of the division's representative who will be conducting such inspection or investigation.

SEC. 3. Section 6304.4 is added to the Labor Code, to read:

6304.4. A prisoner engaged in correctional industry, as defined by the Department of Corrections, shall not be considered an employee for purposes of the provisions relating to appeal proceedings set forth in Chapter 7 (commencing with Section 6600) of this part.

SEC. 4. Section 6413 of the Labor Code is amended to read:

6413. (a) The Department of Corrections, and every physician or surgeon who attends any injured state prisoner, shall file with the Division of Labor Statistics and Research a complete report of every injury to each state prisoner, not reported pursuant to Section 6409, resulting from any labor performed by the prisoner unless disability resulting from such injury does not last through the day or does not require medical service other than ordinary first aid treatment. The Division of Labor Statistics and Research may, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, adopt reasonable rules and regulations prescribing the detail and time limits of such report.

(b) Where the injury results in death a report, in addition to the report required by subdivision (a), shall forthwith be made by the Department of Corrections to the Division of Labor Statistics and Research by telephone or telegraph.

(c) Except as provided in Section 6304.2, nothing in this section or in this code shall be deemed to make a prisoner an employee, for any purpose, of the Department of Corrections.

(d) Notwithstanding the provisions of subdivision (a), no physician or surgeon who attends any injured state prisoner outside of a Department of Corrections institution shall be required to file the report required by subdivision (a), but the Department of Corrections shall file such report.

CHAPTER 1216

An act to add and repeal Section 26002.5 of the Government Code, to amend Section 483 of the Penal Code, and to amend Sections 522 and 99260.5 of, to add Sections 707 and 99234.7 to, and to add and repeal Section 99151 of, the Public Utilities Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. The Legislature finds and declares that:

(a) Interurban railway passenger service is an important component of the passenger transportation systems within this state.

(b) It is the policy of this state to preserve and enhance existing railway passenger services.

(c) Public subsidies and other forms of support may be required to advance this policy.

SEC. 2. Section 26002.5 is added to the Government Code, to read:

26002.5. The legislative body of any city and county located in the area served by the Southern Pacific Transportation Company from the City of San Jose to the City and County of San Francisco may make a bulk purchase of tickets for that line from the company, or from the Greyhound Bus Lines for transportation services within the area, or from both, for resale at less than the cost to the residents of the city and county.

The legislative body shall determine the resale price of tickets purchased by it.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 2.5. Section 483 of the Penal Code is amended to read:

483. Except as otherwise provided in Section 26002.5 of the Government Code and Section 99151 of the Public Utilities Code, any person, firm, corporation, partnership, or association that shall sell to another any ticket, pass, scrip, mileage or commutation book, coupon, or other instrument for passage on a common carrier, for the use of any person not entitled to use the same according to the terms thereof, or of the book or portion thereof from which it was detached, shall be guilty of a misdemeanor.

SEC. 3. Section 522 of the Public Utilities Code is amended to read:

522. Except as provided in this article, Section 99151 of this code, and Section 26002.5 of the Government Code, no common carrier subject to the provisions of this part shall, directly or indirectly, issue, give, or tender any free ticket, free pass, or free or reduced rate transportation for passengers between points within this state

SEC. 4 Section 707 is added to the Public Utilities Code, to read:

707. (a) In any proceeding before the commission relating to the rates charged by a railroad corporation for interurban railway passenger services or to the extent of such services, the commission shall take into consideration the availability of any public subsidies or other forms of support for such services.

(b) The Department of Transportation shall furnish to the commission such information as the commission may request concerning the availability of public subsidies or other forms of support for interurban railway passenger services.

(c) In any proceeding before the commission concerning the interurban transportation of passengers, or any service related thereto, by a railroad corporation, the commission shall give consideration to those factors that would assure the continuation of such interurban passenger service.

SEC. 5. Section 99151 is added to the Public Utilities Code, to read:

99151. Any transit district whose area is served by the Southern Pacific Transportation Company line from the City of San Jose to the City and County of San Francisco may make a bulk purchase of passenger tickets for that line from the company, or from the Greyhound Bus Lines for transportation services within the area, or from both, for resale at less than the cost to the transit district to residents of the transit district.

The governing body of the transit district shall determine the resale price of tickets purchased by it.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 6. Section 99234.7 is added to the Public Utilities Code, to read:

99234.7. The Department of Transportation is authorized to negotiate and, if feasible, contract with the Southern Pacific Transportation Company to provide passenger rail service between the City and County of San Francisco and the City of San Jose, and points in between. In negotiating the contract, the department shall take into consideration the funding available and the level of service recommended by the Metropolitan Transportation Commission.

Nothing in this section shall be construed so as to limit future rail services to other points within the County of Santa Clara However, this shall not be construed as legislative approval of any extension of rail services within the county.

SEC. 7. Section 99260.5 of the Public Utilities Code is amended to read:

99260.5. (a) Claims may also be filed with the transportation planning agency by a city and county or a transit district under this article for payments to be made to a railroad corporation subject to the jurisdiction of the Public Utilities Commission and engaged in the transportation of persons, as defined in Section 208, for operating losses incurred in such transportation of persons between points

within the city and county or the district, as the case may be, and for that portion of the operating losses incurred in such transportation of persons in the city and county or the district, as the case may be, whose origin or destination, or both, are outside the city and county or district.

(b) A city and county or a transit district receiving funds under a claim filed pursuant to subdivision (a) shall use those funds for the purposes specified in that subdivision.

SEC. 8. From funds in the Abandoned Railroad Account in the State Transportation Fund, the Department of Transportation shall acquire, in accordance with Section 2546 of the Streets and Highways Code, that portion of the railroad right-of-way of the Southern Pacific Transportation Company between the Cities of San Bruno and Daly City.

Notwithstanding Section 2546 of the Streets and Highways Code, the department may dispose of the property acquired pursuant to this section to the highest bidder if no agreement has been reached with a public entity to develop the right-of-way for a public transportation use within five years of the date of acquisition by the department.

SEC. 9. (a) The Metropolitan Transportation Commission shall conduct a study to determine the extent to which the transit needs of transit dependents are met by the services provided by the Southern Pacific Transportation Company between the City of San Jose and the City and County of San Francisco. In carrying out this study to complete the mandate of subdivision (a) of Section 14 of Chapter 1130 of the Statutes of 1975 relating to transit-dependent needs, the commission shall utilize existing data, including, but not limited to, the Minority Transportation Needs Assessment Project, the Santa Clara County Corridor Evaluation Study, and the information completed to date by the Peninsula Transit Alternative Project. In completing this study, the commission shall conduct appropriate public hearings within the geographic areas where the group being surveyed resides or where most convenient to ensuring the maximum public participation. Not later than January 1, 1979, the commission shall submit its findings and recommendations to the Legislature. The commission shall appoint a committee of transit dependents from the area served by that service line of the Southern Pacific Transportation Company to aid in the study.

(b) The commission shall ensure the coordination of the services of the transit districts and of the City and County of San Francisco so that there is adequate feeder bus services to that service line in order that the full potential use of the services of the Southern Pacific Transportation Company be utilized by all the communities served thereby.

(c) For purposes of this section, "transit dependents" means the handicapped, economically disadvantaged, aged, and racial minorities.

SEC. 10. With respect to the study submitted to the Legislature

pursuant to subdivision (b) of Section 14 of Chapter 1130 of the Statutes of 1975, the Metropolitan Transportation Commission shall submit to the Legislature:

(a) Not later than February 1, 1978, a detailed financing plan to meet the goals outlined in the study to be achieved during the first two years of implementation of the study.

(b) Not later than September 1, 1978, a detailed financing plan to meet the goals outlined in the study to be achieved after the first two years of implementation of the study.

CHAPTER 1217

An act to amend Sections 26100 and 26101 of the Government Code, and to amend Section 13215 of the Public Resources Code, relating to local agencies.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 26100 of the Government Code is amended to read:

26100. (a) The board of supervisors may levy a special tax not to exceed four cents ($0.04) on the one hundred dollars ($100) of the assessed valuation of all property within the county for the purpose of inducing immigration to, and increasing the trade and commerce of, the county. The proceeds of the tax may be expended for any or all of the following uses.

(1) Advertising, exploiting, and making known the resources of the county.

(2) Exhibiting or advertising the agricultural, horticultural, viticultural, mineral, industrial, commercial, climatic, educational, recreational, artistic, musical, cultural, and other resources or advantages of the county.

(3) Making plans and arrangements for a world's fair, trade fair, or other fair or exposition at which such resources may be exhibited.

(4) Doing any of such work in cooperation with or jointly by contract with other agencies, associations, or corporations.

(b) The board may also appropriate for the purposes of this chapter any moneys accruing to the general fund derived pursuant to Section 7280 of the Revenue and Taxation Code.

SEC. 1.5. Section 26100 of the Government Code is amended to read:

26100. (a) The board of supervisors may levy a special tax not to exceed four cents ($0.04) on the one hundred dollars ($100) of the assessed valuation of all property within the county for the purpose of inducing immigration to, and increasing the trade and commerce

of, the county. The proceeds of the tax may be expended for any or all of the following uses:

(1) Advertising, exploiting, and making known the resources of the county.

(2) Exhibiting or advertising the agricultural, horticultural, viticultural, mineral, industrial, commercial, climatic, educational, recreational, artistic, musical, cultural, and other resources or advantages of the county.

(3) Making plans and arrangements for a world's fair, trade fair, or other fair or exposition at which such resources may be exhibited.

(4) Administration expenses of an industrial development authority authorized by such board of supervisors pursuant to Article 12 (commencing with Section 53590) of Chapter 3 of Part 1 of Division 2 of Title 5.

(5) Doing any of such work in cooperation with or jointly by contract with other agencies, associations, or corporations.

(b) The board may also appropriate for the purposes of this chapter any moneys accruing to the general fund derived pursuant to Section 7280 of the Revenue and Taxation Code.

SEC. 2. Section 26101 of the Government Code is amended to read:

26101. If the rate of four cents ($0.04) will not raise fifty thousand dollars ($50,000) in any one year, the board may appropriate from the general fund of the county an amount sufficient to make up the deficiency existing between the amount raised as the result of the four-cent ($0.04) levy and fifty thousand dollars ($50,000).

SEC. 3. Section 13215 of the Public Resources Code is amended to read:

13215. The district may fix by ordinance or resolution, on or before the first day of July in each calendar year, water or sewer standby or immediate availability charges. Each such charge shall not individually exceed twelve dollars ($12) per year for each acre of land, or eight dollars ($8) per year for each parcel of land of less than an acre within the district to which water or sewerage could be made available for any purpose by the district, whether the water or sewerage is actually used or not. The district board may establish schedules varying the charges depending upon factors such as the uses to which the land is put, the cost of supplying such services to the land, and the amount of services used on the land. The district board may restrict the imposition of such charges to lands lying within one or more improvement districts within the district

The limitations contained in this section shall not apply to any district which levied a standby charge pursuant to the County Service Area Law, Chapter 2.2 (commencing with Section 25210 1) Part 2, Division 2, of Title 3 of the Government Code prior to January 1, 1977. Any such district shall be subject to the provisions of Section 25210.77b of the Government Code

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 655 are both chaptered and become effective January 1, 1978,

both bills amend Section 26100 of the Government Code, and this bill is chaptered after Senate Bill No. 655, that the amendments to Section 26100 proposed by both bills be given effect and incorporated in Section 26100 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 655 are both chaptered and become effective January 1, 1977, both amend Section 26100, and this bill is chaptered after Senate Bill No. 655, in which case Section 1 of this act shall not become operative

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CHAPTER 1218

An act to amend Sections 3, 12, 13, and 20 of, and to add Section 13.5 to, the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session, relating to the San Joaquin County Flood Control and Water Conservation District), and making an appropriation therefor, and declaring the urgency thereof to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 3 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 3. The board of supervisors of the district created by this act, by resolutions thereof adopted from time to time, may establish flood control zones, investigation zones, and water conservation zones within said district without reference to the boundaries of other zones, setting forth in such resolutions descriptions thereof by metes and bounds and entitling each of such zones by a zone number, and institute zone projects for the specific benefit of such zones. The board may, by resolution, amend the boundaries by annexing property to or by withdrawing property from said zones or may divide existing zones into two or more zones or may superimpose a new or amended zone on zones already in existence, setting forth in such resolutions descriptions of the amended, divided or superimposed zones by metes and bounds and entitling each of such zones by a zone number. Any territory in the district may be included within one or more flood control zones, investigation zones, or water conservation zones, or one or more of each types of zones.

As used in this act, "zone" means either a flood control zone, an investigation zone, or a water conservation zone.

At the time of establishing any zone, after January 1, 1978, the board shall designate the zone either a flood control zone,

investigation zone, or a water conservation zone. The primary purpose of a water conservation zone shall be to effectuate the reclamation, storage, distribution, purchase, sale, use, conservation, and development of water. The primary purpose of a flood control zone shall be the prevention of floods and the control of flood and storm waters and the prevention of the inundation of the lands of the district by flood and storm waters. The primary purpose of an investigation zone shall be to carry out engineering, geologic, and other studies relating to the prevention of floods and the control of flood and storm waters and the prevention of the inundation of the lands of the district by flood and storm waters, or the reclamation, storage, distribution, purchase, sale, use, conservation, and development of water, including, but not limited to, studies relating to ground water and the use and management of combined surface water and ground water supplies.

Proceedings for the establishment of such zones may be conducted concurrently with and as a part of proceedings for the instituting of projects relating to such zones, which proceedings shall be instituted in the manner prescribed in Section 12 of this act.

No territory within any county water district, reclamation district, irrigation district, water conservation district, protection district, municipality, flood control district, or other district or political subdivision of the State now or hereafter established in, or partially within the limits of the district, for the purpose or purposes in whole or in part of reclamation, storage, distribution, purchase, sale, use, conservation, and development of water, shall be included within a water conservation zone without the express consent of the governing body of such entity.

SEC. 2. Section 12 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 12. In the event the board, in its judgment, determines that the creation of an investigation zone is necessary or desirable because of the magnitude, scope, cost, or duration of an engineering, geologic, or other study, the board may create, subject to all of the other provisions of this act, an investigation zone. With respect to an investigation zone, the term "project" as used in this act shall include an engineering, geologic, or other study. At the time of establishing an investigation zone, the board may provide that the zone shall exist only for a specific number of years.

The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zone or participating zones For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zone and in the case of participating zones the proportionate cost to be borne

by each of the participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project, or in the case of an investigation zone, the area subject to study. In the case of an investigation zone, the engineering estimate of cost shall be an estimate of the cost of the contemplated study. Notice of such hearing shall be given for a period of not less than twenty (20) days. If there is a newspaper of general circulation published in the territory proposed to be formed into a zone, notice shall be given by publication once a week for two (2) consecutive weeks prior to the hearing, the last publication of which must be at least seven (7) days before said hearing. If there is no such newspaper, notice shall be given by posting notice of the hearing for a period of fourteen (14) days prior to said hearing in five (5) public places as their said territory designated by the board. Said notice shall designate a public place in any such zone where a copy of the map of the project may be seen by any interested person.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the proposed project and to the inclusion or exclusion of property within the proposed zone or participating zone. Upon the conclusion of the hearing the board may abandon the proposed project or proceed with the same, unless prior to the conclusion of said hearing a written protest against the proposed project signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within such zone or within any of the participating zones for which said project was initiated, be filed with the board, in which event further proceedings relating to such project must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board, and if the board proceeds with a proposed project it shall exclude from the zone or participating zones all property which will not be benefited by the proposed project.

In all matters in this section referred to, the last equalized assessment roll of the County of San Joaquin next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation of real property within the zone or within any of the participating zones for which the project was initiated.

Executors, administrators, special administrators, and guardians may sign the protest provided for in this act on behalf of the estate represented by them. If the property is assessed in the name of such representatives, that fact shall establish the right of such representatives to sign the protest; if assessed in the name of the decedent, minor or incompetent person, certified copies of the

letters or such other evidence as may be satisfactory to the board must be produced.

Where real property appears to be owned in common or jointly or by a partnership, or where letters of representatives of decedents, minors or guardians are joint, only one of the owners or representatives or partners may sign the protest for all joint owners or representatives or partners; provided, the party claiming the right to protest for all produces the written consent of his co-owners or representatives or partners so to do, duly acknowledged by the consenting co-owners or representatives or partners in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the recorder's office of the county.

Where real property is assessed in the name of a trustee or trustees, such trustee or trustees shall be deemed to be the person entitled to sign the protest, and if assessed in the name of more than one trustee the right to sign the protest shall be determined in like manner as above provided with respect to co-owners.

The protest of any public or quasi-public corporation, private corporation or unincorporated association, may be signed by any person authorized by the board of directors or trustees or other managing body thereof, which authorization shall be in writing; and a proxy executed by an officer or officers thereof, attested by its seal and duly acknowledged, shall constitute sufficient evidence of such authority, and shall be filed with the board.

The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner appearing as such on the last equalized assessment roll, since the same was made, shall be entitled to sign the protest represented thereby, either by the production of a proxy from such former owner, or by furnishing evidence of his ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the county, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

Where the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless such real property is assessed in the name of the vendor, in which event the vendor shall be entitled to so do.

The board shall likewise be entitled to inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. And, unless satisfactory evidence is furnished, the right to sign said protest may be denied.

SEC. 3. Section 13 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956,

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First Extraordinary Session) is amended to read:

Sec. 13. The board shall have power, in any year:

1 To levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district; provided, however, that said ad valorem tax or assessment shall not exceed two cents ($0.02) on each one hundred dollars ($100) of assessed valuation, or, if the district contemplates or undertakes water conservation or distribution, the ad valorem tax or assessment shall not exceed four cents ($0.04) on each one hundred dollars ($100) of assessed valuation, and

2. To levy taxes or assessments in each or any of said zones and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing or otherwise improving any or all works or improvements established or to be established within or on behalf of said respective zones, or of undertaking or continuing a study, according to the benefits derived or to be derived by said respective zones, by either of the following methods:

(a) By a levy or assessment upon all property within a zone or participating zone. including land, improvements thereon, and personal property;

(b) By a levy or assessment upon all real property within a zone or participating zones, including both land and improvements thereon. It is declared that for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

3. To levy taxes or assessments by either method authorized by subdivision 2 of this section in each or any of said zones, according to the special benefits derived or to be derived by the specific properties therein, to pay the cost and expenses of carrying out any of the objects or purposes of this act of special benefit to such zone or zones, including the constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works of improvement established or to be established within or on behalf of said respective zone or zones.

4. Alternatively to the methods of levy set forth in subdivisions 2 and 3 of this section, in the case of an investigation zone or zones, to levy taxes on assessments in each or any of said zones and participating zones to pay the cost and expenses of undertaking or continuing a study by levy or assessment upon all land, exclusive of improvements and personal property.

In the event of project co-operation with any of the governmental bodies as authorized in subdivision 7 of Section 5 of this act, including projects for water conservation and distribution, and requiring the making of a contract with any such governmental body for the purposes set forth in said subdivision 7, by the terms of which work is to be performed by any such governmental body in any specified zone or participating zones, for the particular benefit thereof, and by

said proposed contract the district is to pay to such governmental body, a sum of money in consideration or subvention for the performance of said work by such governmental body, the board may, after proceedings in the manner prescribed in Section 11 of this act, levy and collect a special tax or assessment upon the property in such zone or participating zones, whereby to raise funds to enable the district to make such payment, in addition to other taxes or assessments herein otherwise provided for.

Said taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from said district taxes or assessments shall be paid into the county treasury to the credit of said district, or the respective zones thereof, and the board shall have the power to control and order the expenditure thereof for said purposes; provided, however, that no revenues, or portions thereof, derived in any zone from the taxes or assessments levied under the provisions of subdivision 2 or 3 of this section shall be expended for constructing, maintaining, operating, extending, repairing or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside of such zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, such zones will become, and shall be referred to as, participating zones.

SEC. 4. Section 13.5 is added to the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session), to read:

Sec. 13.5. With respect to an investigation zone the board may, it its discretion, adopt an alternative method of funding in accordance with this section, and if such election is made it shall be made at the time of determining to proceed with an investigation zone project, following the hearing required by Section 12. The alternative method of funding permitted by this section shall be as follows:

1. At the time of establishing the investigation zone the board shall determine the total number of acres within the zone, and the number of acres which are within any irrigation district or water conservation district and within the zone, and the number of acres not within an irrigation district or a water conservation district but within the investigation zone and shall by resolution declare such acreages and declare that the zone shall be funded in the manner provided in this section. If territory is within more than one irrigation district and water conservation district then for the purpose of this section such territory in two districts shall be deemed to be within the district in which it was last included.

2. Immediately following the adoption of a resolution pursuant to subdivision 1 of this section the district shall send written notice to each irrigation district and water conservation district located in whole or in part within the investigation zone. Within ninety (90) days of the notice mentioned in the preceding sentence the

governing board shall advise the board of its choice among the following methods of levy within the portion of the investigation zone located within the respective irrigation district or water conservation district governed by the governing board:

(a) The method specified in paragraph (a) of subdivision 2 of Section 13.

(b) The method specified in paragraph (b) of subdivision 2 of Section 13.

(c) The alternative method specified in subdivision 4 of Section 13.

(d) By direct semi-annual payment from the funds of the irrigation district or water conservation district rather than by a levy by the district; such semi-annual payments shall be made on each occasion on or before the semi-annual deliquency date for county taxes.

3. During the ninety (90) day period mentioned in subdivision 2 of this section the board shall determine the method of assessment to be used in any portion of the investigation zone not within an irrigation district or water conservation district.

4. In the event that the governing board of an irrigation district or water conservation district does not, during the ninety (90) day period mentioned in subdivision 2 of this section, specify the method of levy or charge to be used within its area, then as to that area the alternative method specified in subdivision 4 of Section 13 shall be applied in such territory.

5. If the board has adopted the method of funding established by this section, then annually the board shall determine the amount to be raised for the entire investigation zone and shall annually allocate the amount to be raised on a per acre basis between each irrigation district, water conservation district and area outside of any such district, but within the investigation zone, and shall then cause such amounts so allocated on an acreage basis to be levied or collected in the manner previously elected by the respective governing boards.

6. No irrigation district or water conservation district shall be permitted to elect the method set forth in paragraph (d) of subdivision 2 of this section unless such district first makes a showing satisfactory to the board that such district has the ability to make the estimated semi-annual payments required during the duration of the project being undertaken by the investigation zone.

SEC. 5. Section 20 of the San Joaquin County Flood Control and Water Conservation District Act (Chapter 46 of the Statutes of 1956, First Extraordinary Session) is amended to read:

Sec. 20. The total amount of taxes and assessments levied on property within any zone or zones shall not exceed twenty cents ($0.20) on each one hundred dollars ($100) of assessed valuation for flood control purposes and twenty cents ($0.20) on each one hundred dollars ($100) of assessed valuation for water conservation purposes, exclusive of the amounts necessary for interest and redemption of any bonds voted within such zone or zones Investigation zones shall be funded by taxes and assessments levied for water conservation purposes.

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

In this second year of extreme drought, it is imperative that the district undertake a concerted effort to identify, investigate, and coordinate its available sources of water for the benefit of the inhabitants therein. It is necessary, therefore, that the provisions of this act go into immediate effect.

CHAPTER 1219

An act to amend Sections 1490, 1493, and 1494 of the Health and Safety Code, relating to sexual assaults, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 1490 of the Health and Safety Code is amended to read:

1490. Each county with a population of more than 100,000 shall have professional personnel trained in the examination of victims of rape and other sexual assaults present or on call either in county hospitals which provide emergency medical services or in a general acute care hospital which has contracted with a county to provide emergency medical services. Such professional personnel shall be provided at not less than one general acute care hospital per each 1,000,000 of population in the county.

SEC. 2. Section 1493 of the Health and Safety Code is amended to read:

1493. The Department of Justice shall, by regulation, adopt a standard and complete form for recordation of medical data disclosed by examination of a victim of rape or other sexual assault.

Each physician and surgeon in a county hospital and in any other general acute care hospital who conducts an examination for evidence of a rape or other sexual assault shall utilize the standard form adopted pursuant to this section and shall make such observations and perform such tests as may be required for recordation of all the data required by the form. Such forms shall be subject to the same principles of confidentiality applicable to any other medical record.

Information contained on the form may be released to the Department of Justice for statistical purposes if all personal identifying information is deleted from the form prior to its release.

The department shall make available sufficient copies of such

forms to every county hospital and shall provide copies to private general acute care hospitals and to other public general acute care hospitals, upon request

SEC. 3. Section 1494 of the Health and Safety Code is amended to read:

1494. The State Department of Health shall, by regulation, adopt a standard and complete protocol for the examination of a victim of rape or other sexual assault. The department shall also adopt by reference in such regulations guidelines for treatment of a victim of rape or other sexual assault.

Medical personnel in a county hospital who examine or treat a victim of rape or other sexual assault shall utilize the protocol and guidelines in the examination and treatment

The department shall transmit a copy of the protocol and guidelines to every county hospital, private general acute care hospital, and public general acute care hospital.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

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

In order that the provisions of law governing the examination and treatment of victims of rape or other sexual assaults may be clarified at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1220

An act to amend Section 5808 of the Government Code, relating to the issuance of securities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 5808 of the Government Code is amended to read:

5808. (a) Before selling any securities, any issuer shall advertise such securities for sale at public sale and shall invite sealed bids therefor by publication of a notice once at least 10 days before the

date of such public sale in a newspaper of general circulation circulated within the boundaries of each public body to be aided by the public project to be financed by the issuance of such securities. If one or more satisfactory bids are received pursuant to such notice, such securities shall be awarded to the highest responsible bidder. If no bids are received or if the issuer determines that the bids received are not satisfactory as to price or responsibility of the bidders, the issuer may reject all bids received, if any, and either readvertise or sell such securities at private sale.

(b) Any issuer may privately negotiate the acquisition of a private water company or the capital stock of such a company with the owner or owners thereof and issue its securities directly to such owner or owners without complying with any of the provisions of subdivision (a), provided that such acquisition is made pursuant to a written agreement entered into prior to January 1, 1978.

(c) Any issuer utilizing the provisions of subdivision (b) may issue its securities to the holders of outstanding securities issued by the same issuer in connection with the exercise of a conversion privilege embodied in any such outstanding security.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act will result in substantial tax benefits under federal law to entities covered by the act. In order that pending transactions may reap the advantages of such tax benefits, it is essential that this act take effect immediately.

CHAPTER 1221

An act to amend Sections 48201, 48410, and 49111 of, and to add Section 48231 to, the Education Code, and to amend Section 1394 of the Labor Code, relating to compulsory school attendance.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 48201 of the Education Code is amended to read:

48201. Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

SEC. 2. Section 48231 is added to the Education Code, to read:

48231. Notwithstanding Section 48201, pupils between 12 and 18 years of age who enter an attendance area from another state within 10 schooldays before the end of the school term during which such entrance occurs are exempt for the remainder of the school term.

SEC. 3. Section 48410 of the Education Code is amended to read:

48410. There are exempted from compulsory attendance in continuing education classes as otherwise required by Sections 48400 and 48402, persons who:

(a) Have been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have had an equal amount of education in a private school or by private tuition

(b) Are in attendance upon a public or private full-time day school, or satisfactory part-time classes maintained by other agencies.

(c) Are disqualified for attendance upon these classes because of their physical or mental condition, or because of personal services that must be rendered to their dependents.

(d) Are satisfactorily attending a regional occupational program or center as provided in Section 48432.

(e) Have successfully demonstrated proficiency equal to or greater than standards as established by the Department of Education pursuant to Section 48412, and have verified approval submitted by their parent or guardian.

(f) Are subject to Section 48400 but not Section 48402 and are in attendance upon classes for adults for not less than four clock hours per calendar week.

(g) Are exempt from compulsory school attendance under Section 48231.

SEC. 4. Section 49111 of the Education Code is amended to read:

49111. A permit to work may be issued to any minor over the age of 12 years and under the age of 18 years to be employed on a regular school holiday, during the regular vacation of the public school, during such time as the minor is exempt from compulsory school attendance pursuant to Section 48231, and during the period of a specified occasional public school vacation in any of the establishments or occupations not otherwise prohibited by law.

SEC. 5. Section 1394 of the Labor Code is amended to read:

1394. Nothing in this article or Article 2 (commencing with Section 1290) of Chapter 2 of this part shall prohibit or prevent any of the following:

(a) The employment of minors 16 years of age or over for more than eight hours in one day or more than 48 hours in one week (i) in agricultural, horticultural, viticultural, or domestic labor; (ii) in any industry, business, or establishment operated for the purpose of grading, sorting, cleaning, drying, cooling, icing, packing, or otherwise preparing any agricultural product for distribution, including all the operations incidental thereto; or (iii) in any operation performed in a permanent fixed structure or

establishment on the farm or on a moving packing plant on the farm for the purpose of preparing agricultural products for market when such operations are done on the premises owned or operated by the same employer who produced the products referred to herein, including all operations incidental thereto.

(b) Notwithstanding subdivision (a), no employer shall employ any minor 16 years of age or over in any industry, business, or establishment described in subdivision (a) for more than six hours on a day when such minor is required by law to attend school, or more than 20 hours in any school week in which the minor is required by law to attend school.

(c) The employment of any minor at agricultural, horticultural, viticultural, or domestic labor during the time the public schools are not in session, or during other than school hours, when the work performed is for or under the control of his parent or guardian and is performed upon or in connection with premises owned, operated or controlled by the parent or guardian; but nothing herein shall permit children under school age to work at such occupations, while the public schools are in session.

(d) The employment of any minor by engineers engaged in survey work as part of a survey crew in the field.

(e) The full-time employment of minors who meet all other legal employment requirements, if they are exempt from compulsory school attendance under Section 48231 of the Education Code.

CHAPTER 1222

An act relating to the construction of a state office building, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. The Legislature hereby finds and declares that the Department of General Services has conducted a study which concludes that there would be significant savings to the state and increased public convenience if the several state departments and agencies presently dispersed throughout the San Fernando Valley section of the City of Los Angeles were quartered in a single centralized state-owned facility, and there is at present suitable property for such a facility located in the Van Nuys Civic Center area in close proximity to city, county, and federal offices.

SEC. 2. There is hereby appropriated from the General Fund to the Department of General Services the sum of one million two hundred thousand dollars ($1,200,000) for the acquisition of property

for purposes of a state-owned building in the area of the Van Nuys Civic Center. This appropriation is made subject to consideration by the Department of General Services, after consultation with the appropriate agencies of the federal government and the City of Los Angeles, of economies of site location, economies of furnishing government services to the people, convenience to the public, location near public transportation, economies of construction and possible use of, or conversion to, solar energy or other alternate energy sources.

SEC 3 Acquisitions made pursuant to this act shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

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

In order for the benefits and savings which will result from this act to be maximized, it is necessary that this act become effective immediately.

CHAPTER 1223

An act to amend and renumber Section 66656.1 of, and to repeal Section 66656 of, the Government Code, and to amend Section 1 of, and to add Sections 2, 3, 4, 5, 6, 7, and 8 to, Chapter 211 of the Statutes of 1919, relating to tide and submerged lands in the Bay of San Francisco.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 66656 of the Government Code is repealed.

SEC. 2 Section 66656.1 of the Government Code is amended and renumbered to read·

66656. (a) Any person claiming an exemption from the permit requirements of Section 66632 for placement of fill within the area of the commission's jurisdiction under subdivisions (a), (c), and (d) of Section 66610 after January 1, 1974, through reliance upon Section 66632.1 or 66655 shall, within 90 days after January 1, 1974, notify the commission by filing a claim of exemption with the commission. Failure of any person to file a claim of exemption within such time shall subject such activity of such person within such area of the commission's jurisdiction to the permit requirements of this act.

(b) The commission shall, by regulation, establish procedures, including public hearings, for determining claims of exemption and

may require documentation, including declarations under penalty of perjury or affidavits, to support any claim of exemption.

(c) The commission shall take reasonable steps to notify persons of this section, but the failure of any person to receive such notice shall not extend the period within which a claim of exemption is required to be filed under this section.

(d) This section shall not apply either to any person who has received a written determination by or on behalf of the commission prior to January 1, 1974, that a specific project is exempt from the provisions of this act or to any person who is a party to a written agreement with the commission relating to a claim of exemption.

SEC. 3. Section 1 of Chapter 211 of the Statutes of 1919 is amended to read:

Section 1. There is hereby granted to the City of Albany, and to its successors, all right, title, and interest of the state held by virtue of its sovereignty in and to those certain tide and submerged lands, whether filled or unfilled, which are situated in the County of Alameda and more particularly described in Section 8. Such lands shall be held by the city, and its successors, in trust for the benefit of all of the people of the state for the statewide tidelands trust purposes of commerce, navigation, and fisheries, and for other public purposes, including, but not limited to, preservation of such lands in their natural state for scientific study, open space, wildlife habitat, and recreational uses, as more particularly provided in this act. This grant is subject to the following express conditions:

(a) That the use of the lands shall be in accordance with the Albany Waterfront Plan as adopted by the city on February 14, 1977, or as amended as provided in this act.

(b) That the lands shall be improved, maintained, preserved, or restored without expense to the state, as more particularly provided in Section 2; provided, however, that nothing contained in this act shall preclude the city from accepting and expending any grant or loan of funds from the state, or any board, agency, department, or commission thereof, for such purposes, in a manner that is consistent with the trust upon which the lands are held.

(c) That the acquisition of property and the rendition of services reasonably necessary for carrying out the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program, shall be consistent with the terms and conditions set forth in this act.

(d) That the city, or its successors, may not at any time grant, convey, give, or alienate the lands, or any part thereof, to any individual, firm, or corporation for any purposes whatsoever; provided, however, that the city, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and, subject to the requirements of Section 5, may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trust upon which the lands are held.

(e) That, in the management, conduct, operation, and control of the lands or any improvements, betterments, or structures thereon, the city or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(f) That the state shall have the right to use without charge any transportation, landing or storage improvements, betterments, or structures constructed upon the lands for any vessel or other watercraft or railroad owned or operated by the state.

(g) That there is reserved to the people of the state the right to fish in the waters over the tide and submerged lands, or from filled lands, with the right of convenient access to such waters over the lands for that purpose.

(h) That there is excepted and reserved all remains of archaeological and historical importance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the lands, and the right to prospect for, mine, and remove such deposits from the lands.

(i) That the city may not authorize a capital outlay project, lease, or agreement, for port facilities such as marine terminals, pipelines, or other related energy facilities on state tide and submerged lands which have been granted in trust without first requesting and receiving the approval, in writing, of the State Lands Commission. Prior to approving any such project, lease, or agreement, the commission shall consult with other governmental agencies and shall determine whether such project, lease, or agreement is in and for the best interests of the people of the state and conforms to provisions of law and whether the allocation between the state and the city of any revenues generated as a result of such a project, lease, or agreement will be in accordance with the provisions for allocation of excess revenues contained in Section 6.

SEC. 4. Section 2 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 2. (a) The city shall diligently and reasonably pursue the funding and implementation of the Albany Waterfront Plan; and on or before January 1, 1983, or five years after funds necessary to complete the plan are received by the city, whichever is later, but in no event later than January 1, 1988, the lands shall be substantially improved, restored, preserved, or maintained by the city without expense to the state and in accordance with the initial phase of the plan unless the commission determines that the plan cannot be implemented in the manner specified in this section because of unavoidable delay that was out of the control of the city. However, if the commission determines that the city has not improved, restored, preserved, or maintained the lands as required by the initial phase of the plan, all right, title, and interest of the city in and to all lands granted by this act shall cease, and all right, title, and interest in the lands shall revert to the state. All improvement, restoration, preservation, or maintenance shall be effected in accordance with the Albany Waterfront Plan

(b) Nothing contained in this section shall be construed as precluding the city from taking action pursuant to the ultimate phase of the plan for shoreline park development prior to completion of all initial phases of the plan.

SEC. 5. Section 3 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 3. The city shall submit all material changes and amendments to the Albany Waterfront Plan to the commission for its approval. "Material changes and amendments" consists of any change of boundaries of the commercial area, any change of use, or any change of basic configuration of the shoreline. The commission shall review such changes and amendments with reasonable promptness to determine whether the change or amendment is in accord with the public purposes permitted by this act and the trust established by Section 1. The decision of the commission shall take one of the following forms: approval as proposed, approval subject to recommended changes, disapproval with recommendations for an alternative plan, or disapproval with a statement of the reason therefor.

SEC. 6. Section 4 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 4. (a) For the purposes of this act only and to clarify the geographic extent of the jurisdiction of the San Francisco Bay Conservation and Development Commission over the lands, whether filled or unfilled, described in Section 8, the San Francisco Bay Conservation and Development Commission shall use February 14, 1977, as the date with respect to which it shall determine the extent of the area of granted lands that are subject to tidal action as specified in subdivision (a) of Section 66610 of the Government Code and the extent of the area of granted lands that constitute the shoreline band as specified in subdivision (b) of Section 66610 of the Government Code.

(b) On and after January 1, 1978, the agreement between the city and the San Francisco Bay Conservation and Development Commission concerning the exemption from the commission's permit requirements for work that was based on the former waterfront plan for the submerged and reclaimed lands within the city is terminated.

(c) Nothing contained in this act or in the specifications of the Albany Waterfront Plan shall be construed to limit the authority of the San Francisco Bay Conservation and Development Commission, and the city shall be subject to all the provisions of the McAteer-Petris Act (commencing with Section 66600 of the Government Code) and all rules and regulations promulgated thereunder as if it were any other applicant.

(d) In addition to the requirements of Section 3 of this act, any change or amendment to the Albany Waterfront Plan shall be submitted to the San Francisco Bay Conservation and Development Commission for consideration under the same circumstances and in

the same manner as if it were a change or amendment to a special area plan that is subject to approval by that commission.

SEC. 7. Section 5 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 5. (a) On or before July 1, 1979, the city council shall develop and submit to the State Lands Commission, for its approval, procedures, rules, and regulations to govern the issuance, making, renewal, or renegotiation of any lease, agreement, or franchise concerning granted tide and submerged lands or any improvement thereon. Such rules and regulations shall specify the rent or other consideration, the bases upon which the rent is established, terms and conditions, provisions for assignments, and such other matters as may be required by the commission. The commission shall make its decision within 90 days of receipt of the procedures, rules, and regulations. No new lease, franchise, or agreement may be entered into unless and until the commission approves the procedures, rules, and regulations.

(b) Before entering into a lease, franchise, or agreement concerning granted tidelands, the city council shall first adopt a resolution declaring its intention to take such action. The resolution shall describe lands or improvements that are the subject of the lease, franchise, or agreement in such a manner as to identify them accurately, and shall specify the minimum rental or other consideration and the other terms and conditions of the lease, franchise, or agreement.

(c) Upon request, the city shall submit a copy of any lease, franchise, or agreement issued, entered into, renewed, or renegotiated to the commission.

SEC. 8. Section 6 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 6. (a) All revenues derived from the use of the granted lands and also those lands that are subject to the Albany Waterfront Plan but are not granted by this act, shall be expended only for the trust uses and purposes upon which the granted lands are held.

(b) With approval of the commission, the city shall establish accounting procedures whereby an accurate record of all such revenues and all expenditures of such revenues will be maintained. The purpose of this requirement is to provide for the segregation of revenues derived from the use of such lands from other revenues of the city in order to assure that revenues derived from the use of such lands are only expended for the trust uses and purposes upon which the granted lands are held.

(c) On or before October 1 of each year, the city shall cause to be prepared and filed with the commission a detailed statement of all revenues and all expenditures arising from the administration of such lands, including obligations incurred but not yet paid, for the fiscal year ending on the previous June 30. Until such time as the commission completes its determination under Section 2, the city shall, in addition, furnish cumulative totals of expenditures,

obligations, and revenues arising from all phases of the Albany Waterfront Plan in a supplement to this annual financial statement.

(d) As to the expenditure of revenues for every capital improvement on the granted lands that exceeds two hundred fifty thousand dollars ($250,000), the city shall file with the commission a detailed description of such capital improvement not less than 90 days prior to the time proposed for making the first disbursement therefor unless the expenditure for such capital improvement is specifically mentioned or reflected in the total estimates set forth in the Albany Waterfront Plan or a change or amendment thereto that has been approved under Section 3. Within 90 days after the time of such filing, the commission shall determine whether such capital improvement is in the statewide interest and benefit and is authorized by the Albany Waterfront Plan as it exists or as it may be changed or amended under Section 3. The commission may request the opinion of the Attorney General on the matter; and if it does so, a copy of such opinion shall be delivered to the city with the notice of its determination. In the event the commission notifies the city that such capital improvement is not authorized, the city shall not disburse any revenue for, or in connection with, such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The city is authorized to bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the State Lands Commission and the Attorney General, and the Attorney General shall defend the state in such suit. If judgment is given against the state in such suit, no costs may be recovered.

SEC. 9 Section 7 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 7. (a) On June 30, 1980, and on the last day of every third fiscal year thereafter, that portion of the city tideland trust revenues, as described in subdivision (a) of Section 6, in excess of two hundred fifty thousand dollars ($250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust activities have been made, shall be deemed excess revenues; provided, however, that any funds deposited in a reserve fund to retire bond issues for state loans made for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining net revenues.

(b) The excess revenue, as determined pursuant to this section, shall be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; and 15 percent, to the city for deposit in the segregated fund created pursuant to Section 6. The city shall be entitled to reimbursement from excess revenues allocated to the segregated fund for any amount advanced from city tax revenues for

expenditure for any trust use or purpose authorized by this act if the city declared to the commission its intent to such reimbursement at the time that amount was advanced.

SEC. 10. Section 8 is added to Chapter 211 of the Statutes of 1919, to read:

Sec. 8. Lands that are granted pursuant to Section 1 are described as follows:

Three parcels of tide and submerged lands situated in and adjacent to the bed of San Francisco Bay, Alameda County, State of California, more particularly described as follows:

PARCEL 1

COMMENCING at point "A" as shown on the Map of the Grant to the City of Albany, recorded July 24, 1963, in Book 43 of Maps, page 12A, Alameda County Records, said point "A" having California Zone 2 coordinates of x = 1,469,703.82 feet and y = 511,851.40 feet, thence along the northerly boundary of said Grant S 74° 21′ 53″ E, 2573.92 feet to point "B" as shown on said map and being the TRUE POINT OF BEGINNING, thence continuing along the boundary of said grant the following ten courses.

(1) N 01° 08′ 07″ E, 661.08 feet;
(2) S 88° 51′ 53″ E, 661.58 feet;
(3) N 01° 08′ 07″ E, 876.29 feet;
(4) N 75° 19′ 34″ E, 1636.95 feet,
(5) S 88° 51′ 53″ E, 409.57 feet;
(6) S 01° 08′ 07″ W, 1321.66 feet;
(7) N 88° 51′ 53″ W, 661.05 feet;
(8) S 01° 08′ 07″ W, 1322.17 feet;
(9) N 88° 51′ 53″ W, 1550.05 feet;
(10) S 32° 12′ 53″ E, 1582.80 feet;

thence N 88° 51′ 53″ W, 1305.22 feet; thence N 01° 08′ 07″ E, 1983.26 feet to the True Point of Beginning.

Coordinates, bearings, and distances used in the above description are based on the California Coordinate System, Zone 2.

PARCEL 2

BEGINNING at Point "J" as shown on said Map of Grant to The City of Albany, recorded July 24, 1963, said point "J" having California Zone 2 coordinates of x = 1,474,154.14 feet and y = 510,458.00 feet, thence along the boundary of said grant the following two courses:

(1) N 88° 51′ 53″ W, 1550 05 feet;
(2) S 32° 12′ 53″ E, 1582.80 feet;

thence N 28° 20′ 17″ E, 1487.26 feet to the point of beginning.

Coordinates, bearings, and distances used in the above description are based on the California Coordinate System, Zone 2.

PARCEL 3

All of that certain parcel of land described as Parcel 1 in deed to the City of Albany, recorded January 15, 1942, in Liber 4159, page 296, Alameda County Records.

SEC. 11. Notwithstanding Section 2231 of the Revenue and

Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 1224

An act to amend Sections 52171 and 52178 of, and to add Section 52169.1 to, the Education Code, relating to bilingual education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 52171 of the Education Code is amended to read:

52171. At the beginning of each school year, the district shall assess each limited-English-speaking pupil. The pupil's achievement in comprehending, reading, and writing English and, to the extent assessment instruments are available, the second language of instruction shall be assessed. Pretesting of basic skills for pupil participants shall be conducted at the beginning of each school year, and posttesting of basic skill for pupil participants shall be conducted at the end of each school year. At least annually there shall be submitted to the Department of Education an evaluation of pupil progress for every program which has been approved pursuant to this article. The evaluation report shall identify variables, including other programs, which may have affected pupil academic achievement

It shall also include, but not be limited to, reading comprehension and speaking skills, in English and, to the extent assessment instruments are available, the primary language.

This section shall take effect on July 1, 1978.

SEC. 2. Section 52169.1 is added to the Education Code, to read:

52169.1. Beginning with fiscal year 1977–78, all programs funded pursuant to Article 1 (commencing with Section 52100) of this chapter, shall be conducted under the programmatic provisions of this article and administrative regulations adopted pursuant thereto.

Nothing in this article shall preclude the participation by an individual school district in a consortium, or a cooperative in order to provide support and contract services to school districts that receive funds for the purposes of this article.

SEC. 3. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or (c) of Section 52163 shall be

bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the limited-English-speaking pupils in his or her class and hold an internship credential, or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable one-year waiver from the board for each teacher who is not bilingual-crosscultural but who is participating in a program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than two school years commencing September 1977.

Each school district which requests waivers for the 1977–78 or 1978–79 school year shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver will be participating in an appropriate program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during the school year for which the waiver is granted. If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to recruit and hire bilingual-crosscultural teachers including contacting the bilingual-crosscultural teachers annually listed by the Commission for Teacher Preparation and Licensing and contacting and requesting assistance from the clearinghouse maintained by the commission pursuant to Section 10106.

All waivers granted pursuant to this section shall expire not later than September 1, 1979.

No teacher employed after January 1, 1978, to teach in programs defined by subdivision (a), (b), or (c) of Section 52163 shall be eligible for a waiver

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

In order to provide for a limited exception to the bilingual staffing requirements for programs conducted under the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 during the 1977–78 school year for school districts, which, without such an exception, could not provide the bilingual services required, it is essential that this act take immediate effect.

CHAPTER 1225

An act to amend Section 20009.1 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The office of county superintendent of schools with respect to its employees whose compensation is not paid from county funds and with respect to employees of school districts within the jurisdiction of the superintendent which are not contracting agencies.

(b) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(c) Any foundation or trust established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of a state or junior college.

(d) Any student body or nonprofit organization composed exclusively of students of a state or junior college or of members of the faculty of a state or junior college, or both, and established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of the state or junior college.

(e) The Adjutant General with respect to persons employed by him pursuant to federal regulations and compensated directly from federal funds.

(f) A state organization which is authorized under subdivision (e) of Section 1071 of the Education Code.

(g) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(h) A section of the California Interscholastic Federation.

(i) Any credit union with a membership of over 10,000 and fifteen million dollars ($15,000,000) in assets and incorporated under Division 5 (commencing with Section 14000) of the Financial Code, and 95 percent of whose membership is limited to state employees and their immediate families and employees of any such credit union. For the purposes of this subdivision, "state employee" shall mean any person who is retired from or employed by the state, the State University and Colleges or the University of California, and any person employed by any other public agency which receives the majority of its funding from the state and "immediate family" shall mean those persons related by blood or marriage who reside in the

household of a state employee member of the credit union. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board.

SEC. 2. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(b) Any foundation or trust established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of a state or community college.

(c) Any student body or nonprofit organization composed exclusively of students of a state or community college or of members of the faculty of a state or community college, or both, and established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of the state or community college.

(d) The Adjutant General with respect to persons employed by him pursuant to federal regulations and compensated directly from federal funds.

(e) A state organization which is authorized under subdivision (e) of Section 35172 of the Education Code.

(f) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(g) A section of the California Interscholastic Federation.

(h) Any credit union with a membership of over 10,000 and fifteen million dollars ($15,000,000) in assets and incorporated under Division 5 (commencing with Section 14000) of the Financial Code, and 95 percent of whose membership is limited to state employees and their immediate families and employees of any such credit union. For the purposes of this subdivision, "state employee" shall mean any person who is retired from or employed by the state, the state university and colleges or the University of California, and any person employed by any other public agency which receives the majority of its funding from the state and "immediate family" shall mean those persons related by blood or marriage who reside in the household of a state employee member of the credit union. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 324 are both chaptered and become effective on or before January 1, 1978, both bills amend Section 20009.1 of the Government Code, and this bill is chaptered after Assembly Bill No. 324, that Section 20009.1 of the Government Code, as amended by Section 1 of Assembly Bill No. 324, be further amended on the effective date of this act in form set forth in Section 2 of this act to incorporate the

changes in Section 20009.1 proposed by this bill. Therefore, if this bill and Assembly Bill No. 324 are both chaptered and become effective on or before January 1, 1978, and Assembly Bill No. 324 is chaptered before this bill and amends Section 20009.1, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 1226

An act to amend Sections 20800 and 20800.6 of the Business and Professions Code, relating to lubricating oil.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 20800 of the Business and Professions Code is amended to read:

20800. Any lubricating oil, regardless of its origin, or any product that is a blend of recycled oil and new oil, shall not be sold, offered for sale, delivered, offered for delivery or stored as an engine lubricant, engine oil, motor oil or lubricating oil for use in an internal combustion engine unless such product conforms to the following specifications:

(a) It shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the standard test therefor.

(b) The flashpoints for the various S A.E. (Society of Automotive Engineers) classifications shall not be less than the following when tested in accordance with the standard method of test for flash and fire points by means of the Cleveland open cup·

Viscosity classification	Viscosity SSU at 210° F.	Minimum flash degrees Fahrenheit
SAE 5W		305
SAE 10W		335
SAE 20W		345
SAE 20		345
SAE 30		355
SAE 40		375
SAE 50		400
Grade 60	110 to less than 125	435
Grade 70	125 to less than 150	470

(c) It shall meet the motor oil requirements established by the Society of Automotive Engineers for engine oil performance and engine service classification—SAE J183 or the latest revision thereof.

(d) Any motor oil or lubricating oil that is represented to meet S.A.E./A.P.I. Service S.A. must have a neutralization number as measured by ASTM method D-974 of 0.20 maximum.

SEC. 2. Section 20800.6 of the Business and Professions Code is amended to read:

20800.6. It is unlawful for any person to sell, offer to sell, or deliver or offer to deliver any engine lubricant, engine oil, lubricating oil, or motor oil unless the SAE/API service classification is conspicuously marked on each container. On or after January 1, 1979, each container which contains one gallon or less engine lubricant, engine oil, lubricating oil, or motor oil shall bear a plainly visible statement indicating generally the automobile model years or condition of service for which the engine lubricant, engine oil, lubricating oil or motor oil is suitable or appropriate for gasoline engines as described in SAE J 183 or the latest revision thereof.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1227

An act to amend Section 36 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970), and to amend Section 37 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) relating to harbors.

[Approved by Governor September 30, 1977. Filed with Secretary of State October 1, 1977.]

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

SECTION 1. Section 36 of the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970) is amended to read:

Sec. 36. The district may itself, without letting contracts therefor, do work and make improvements. The work shall be done under the direction of its officers or employees in accordance with the following paragraph:

In the construction or reconstruction of public buildings, streets, utilities and other public works, and in furnishing supplies, materials, equipment or contractual services for the same, when the expenditure therefor shall exceed the sum of five thousand dollars

($5,000), the same shall be done by written contract, except as otherwise provided in this act, and the board, on the recommendation of the chief executive officer, shall let the same to the lowest responsible and reliable bidder, not less than 10 days after advertising for one day in the official newspaper of the district for sealed proposals for the work contemplated. All maintenance or repair projects where the cost of materials and labor exceeds three thousand five hundred dollars ($3,500) shall be let to the lowest responsible and reliable bidder If the cost of the public contract work exceeds the sum of three thousand five hundred dollars ($3,500), but is not in excess of five thousand dollars ($5,000), the board may let the contract without advertising for bids, but not until the chief executive officer shall have secured competitive prices from contractors interested, which shall be taken under consideration by the board before the contract is let. The board may, however, upon the recommendation of the chief executive officer and by a vote of a majority of its members, order the performance of any such construction and reconstruction or repair work by appropriate district forces when the estimates submitted as part of the chief executive officer's recommendation indicate that the work can be done by the district forces more economically than if let by contract

In case of a great public calamity, such as extraordinary fire, flood, storm, epidemic or other disaster the board may, by resolution passed by a vote of a majority of its members, determine and declare that the public interest or necessity demands the immediate expenditure of district money to safeguard life, health or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any sum required in such emergency, on hand in the district fund and available for such purpose. All contracts before execution shall be approved as to form and legality by the attorney for the district

Contracts for consulting services shall be let only after submission of proposals and evaluation of the expertise, experience, and proposed price of the vendor. Contracts for consulting services not limited to a specific project shall not exceed one year in length.

The provisions of this section do not apply to any contract for architectural, engineering, legal, or auditing services.

SEC 2. Section 37 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 37 The district may itself, without letting contracts therefor, do work and make improvements The work shall be done under the direction of its officers or employees.

In the construction or reconstruction of public buildings, streets, utilities and other public works, and in furnishing supplies, materials, equipment or contractual services for the same, when the expenditure therefor shall exceed the sum of five thousand dollars

($5,000), the same shall be done by written contract, except as otherwise provided in this act, and the board, on the recommendation of the port director, shall let the same to the lowest responsible and reliable bidder, not less than 10 days after advertising for one day in the official newspaper of the district for sealed proposals for the work contemplated. All maintenance or repair projects where the cost of materials and labor exceeds three thousand five hundred dollars ($3,500) shall be let to the lowest responsible and reliable bidder. If the cost of the public contract work exceeds the sum of one thousand dollars ($1,000), but is not in excess of five thousand dollars ($5,000), the board may let the contract without advertising for bids, but not until the port director shall have secured competitive prices from contractors interested, which shall be taken under consideration by the board before the contract is let. The board may, however, upon the recommendation of the port director and by a vote of five of its members, order the performance of any such construction and reconstruction or repair work by appropriate district forces when the estimates submitted as part of the port director's recommendation indicate that the work can be done by the district forces more economically than if let by contract.

In case of a great public calamity, such as extraordinary fire, flood, storm, epidemic or other disaster the board may, by resolution passed by a vote of five of its members, determine and declare that the public interest or necessity demands the immediate expenditure of district money to safeguard life, health or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of, any sum required in such emergency, on hand in the district fund and available for such purpose. All contracts before execution shall be approved as to form and legality by the attorney for the district.

Contracts for consulting services shall be let only after submission of proposals and evaluation of the expertise, experience, and proposed price of the vendor. Contracts for consulting services not limited to a specific project shall not exceed one year in length.

The provisions of this section do not apply to any contract for architectural, engineering, legal, or auditing services.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1228

An act to add Section 2985.51 to the Civil Code, relating to real property sales contracts.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 2985.51 is added to the Civil Code, to read:

2985.51. (a) Every real property sales contract entered into on and after January 1, 1978, where the real property that is the subject of such contract resulted from a division of real property occurring on or after January 1, 1978, shall contain or have attached thereto a statement indicating the fact that the division creating the parcel or parcels to be conveyed:

(1) Was made in compliance with the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code and local ordinances adopted pursuant thereto, and in such event the statement shall expressly refer to the location, in the records of the county recorder for the county in which the real property is located, of a previously recorded certificate of compliance or conditional certificate of compliance issued pursuant to Section 66499.35 of the Government Code with respect to the real property being sold, or the statement shall describe the real property to be conveyed as an entire lot or parcel by referencing the recorded final or parcel map creating the parcel or parcels to be conveyed and such description shall constitute a certificate of compliance as set forth in subdivision (d) of Section 66499.35 of the Government Code. Provided, however, where reference is made to a recorded parcel map and the approval of such map was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the development of such parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then the statement shall expressly set forth all such required offsite and onsite improvements; or

(2) Was exempt from the provisions of the Subdivision Map Act and local ordinances adopted pursuant thereto, and in such event the statement shall expressly set forth the basis for such exemption; or

(3) Was the subject of a waiver of the provisions of the Subdivision Map Act and local ordinances adopted pursuant thereto, and in such event the contract shall have attached thereto a copy of the document issued by the local agency granting the waiver Provided, however, where the granting of the waiver was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the

development of the parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then such statement shall expressly set forth all such required offsite and onsite improvements; or

(4) Was not subject to the provisions of the Subdivision Map Act and local ordinances adopted pursuant thereto, and in such event the statement shall expressly set forth the basis for the nonapplicability of the Subdivision Map Act to the division.

(b) Every real property sales contract entered into after January 1, 1978, where the real property that is the subject of such contract resulted from a division of real property occurring prior to January 1, 1978, shall:

(1) Contain or have attached thereto a signed statement by the vendor that the parcel or parcels which are the subject of the contract have been created in compliance with, or a waiver has been granted with respect to, the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code and local ordinances adopted pursuant thereto, or any prior law regulating the division of land, or, were exempt from or not otherwise subject to any such law at the time of their creation. Provided, however, where the division creating the parcel or parcels being conveyed was by means of a parcel map, or in the event that a waiver of the provisions of the Subdivision Map Act has been granted, and the approval of the parcel map or the granting of the waiver was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the development of such parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then such contract shall expressly set forth all such required offsite and onsite improvements.

(2) In lieu of the above, the vendor may include in the real property sales contract a description of the real property being conveyed as an entire lot or parcel by referencing the recorded final or parcel map creating the parcel or parcels being conveyed and such description shall constitute a certificate of compliance as set forth in subdivision (d) of Section 66499.35 of the Government Code. Provided, however, where reference is made to a recorded parcel map, or in the event that a waiver of the provisions of the Subdivision Map Act has been granted, and the approval of the parcel map or the granting of the waiver was conditioned upon the construction of specified offsite and onsite improvements as a precondition to the issuance of a permit or grant of approval for the development of such parcel and the construction of the improvements has not been completed as of the date of execution of the real property sales contract, then such contract shall expressly set forth all such required offsite and onsite improvements.

(3) Notwithstanding paragraphs (1) and (2), in the event that the parcel or parcels which are the subject of the real property sales

contract were not created in compliance with the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code and local ordinances adopted pursuant thereto, or any other prior law regulating the division of land, and were not exempt from, or were otherwise subject to any such law at the time of their creation, the real property sales contract shall contain a statement signed by the vendor and vendee acknowledging such fact. In addition, the vendor shall attach to the real property sales contract a conditional certificate of compliance issued pursuant to Section 66499.35 of the Government Code.

(c) In the event that the parcel or parcels which are the subject of the real property sales contract are found not to have been created in compliance with, or a waiver has not been granted with respect to, the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, or any other prior law regulating the division of land nor to be exempt from, or otherwise subject to such laws and the vendee has reasonably relied upon the statement of such compliance or exemption made by the vendor, or in the event that the vendor has failed to provide the conditional certificate of compliance as required by paragraph (3) of subdivision (b), and the vendor knew or should have known of the fact of such noncompliance, or lack of exemption, or the failure to provide the conditional certificate of compliance, the vendee, or his successor in interest, shall be entitled to: (1) recover from the vendor or his assigns the amount of all costs incurred by the vendee or his successor in interest in complying with all conditions imposed pursuant to Section 66499.35 of the Government Code; or, (2) the real property sales contract, at the sole option of the vendee, or his successor in interest, shall be voidable and in such event the vendee or his successor in interest shall be entitled to damages from the vendor or his assigns. For purposes of this section, damages shall mean all amounts paid under the real estate sales contract with interest thereon at the rate of 9 percent per annum, and in addition thereto a civil penalty in the amount of five hundred dollars ($500) plus attorney's fees and costs. Any action to enforce the rights of a vendee or his successor in interest shall be commenced within one year of the date of discovery of the failure to comply with the provisions of this section.

(d) Any vendor who willfully violates the provisions of subdivision (a) of this section by knowingly providing a vendee with a false statement of compliance with, exemption from, waiver of, or nonapplicability of, the provisions of the Subdivision Map Act, with respect to the real property that is the subject of the real property sales contract, shall be guilty of a misdemeanor punishable by a fine of not to exceed one thousand dollars ($1,000), or imprisonment for not to exceed six months, or both such fine and imprisonment.

(e) For purposes of this section a real property sales contract is an agreement wherein one party agrees to convey title to unimproved real property to another party upon the satisfaction of specified

conditions set forth in the contract and which does not require conveyance of title within one year from the date of formation of the contract. Unimproved real property means real property upon which no permanent structure intended for human occupancy or commercial use is located

(f) The provisions of this section shall not apply to a real property sales contract which, by its terms, requires either a good faith downpayment and a single payment of the balance of the purchase price or a single payment of the purchase price upon completion of the contract, and the provisions of such contract do not require periodic payment of principal or interest.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1229

An act to amend Sections 15323 and 15330 of the Government Code, as added by Senate Bill 28 of the 1977–78 Regular Session, to amend Sections 11554 and 12804 of, to add Section 15327 to, and to repeal Chapter 5.6 (commencing with Section 8390) of Division 1 of Title 2 of, the Government Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 5.6 (commencing with Section 8390) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 2. Section 11554 of the Government Code is amended to read:

11554. An annual salary of twenty-seven thousand five hundred dollars ($27,500) shall be paid to each of the following:

(a) Director of Conservation
(b) Director of Fish and Game
(c) Executive Officer, Franchise Tax Board
(d) Director of Parks and Recreation
(e) Director of Rehabilitation
(f) Director of Veterans Affairs
(g) Director of Professional and Vocational Standards
(h) Members of the Unemployment Insurance Appeals Board
(i) State Architect

(j) Director of Forestry.

SEC. 3. Section 12804 of the Government Code is amended to read:

12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency

The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Veterans Affairs; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System, the State Fire Marshal; and the State Teachers' Retirement System.

The Department of Corrections and the Department of the Youth Authority are hereby transferred from the Youth and Adult Corrections Agency to the Health and Welfare Agency.

SEC. 4. Section 15323 of the Government Code, as added by Senate Bill 28 of the 1977–78 Regular Session, is amended to read:

15323. The director shall:

(a) Perform all duties, exercise all powers, discharge all responsibility, and administer and enforce all laws, rules, and regulations under the jurisdiction of the department.

(b) Keep all books and records necessary for proper and efficient administration of the department.

(c) Serve as the Governor's principal staff adviser on economic development.

(d) Serve as executive director of the state economic development regional commission as designated by the Secretary of the United States Department of Commerce pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended.

SEC. 5. Section 15327 is added to the Government Code, to read:

15327 In order to carry out the provisions of this chapter, there is hereby created in the State Treasury the California Economic Development Grant and Loan Fund.

The California Economic Development Grant and Loan Fund is created solely for the purpose of receiving federal, state, and local money for subsequent allocation by the department in the form of grants or loans to public and private agencies pursuant to P.L. 89-136, Section 304 of the Public Works and Economic Development Act of 1965, as amended.

All money deposited in the California Economic Development Grant and Loan Fund shall remain available, as is continuously appropriated, until expended or obligated without regard to fiscal year for purposes of this chapter.

Funds allocated from the fund by the state pursuant to P.L. 89-136, Section 304, once repaid to the state may be used for reallocation as grants or loans without regard to a federal matching share so long as the proceeds are used for economic development in a manner consistent with P.L. 89-136, Section 304.

SEC. 6. Section 15330 of the Government Code, as added by Senate Bill 28 of the 1977–78 Regular Session, is amended to read:

15330. The Department of Economic and Business Development shall be the principal state agency responsible for

(a) Coordinating federal-state-local relationships in economic development, the continual evaluation of the impact of policies and programs affecting economic development, and encouraging the full utilization of programs available for assisting the residents of the state and local public entities in satisfying the economic development needs of the state.

(b) Applying for and allocating federal funds available under the Public Works and Economic Development Act of 1965, as amended, and such other federal funds as may be available which will promote and assist economic development in the state.

(c) Assisting state agencies, offices, and departments to implement the state economic policy pursuant to Part 12 (commencing with Section 15900) of Division 3 of Title 2 and serving as an advisory agency to the Governor in the preparation of the Economic Report of the Governor as required by Section 15901.

(d) Responding to inquiries and providing statistics and other information on the economy, visitor attractions, and international trade, products and processes.

(e) The department in carrying out its responsibilities shall make maximum use of base data and studies currently being prepared and distributed by other state agencies. It shall avoid duplication of these efforts where possible.

SEC. 7. It is the intent of the Legislature that if the provisions of Senate Bill 28 become effective and such provisions add Sections 15323 and 15330 to the Government Code, Sections 15323 and 15330 of the Government Code be amended to read as provided in Sections 4 and 6 of this act. The provisions of Sections 4 and 6 of this act shall not become operative if Senate Bill 28 does not become effective or does not add Sections 15323 and 15330 to the Government Code.

SEC. 8. It is the intent of the Legislature that the provisions of Section 5 of this act shall become operative if the provisions of Senate Bill 28 of the 1977–78 Regular Session become effective and the provisions of Senate Bill 28 establish a Department of Economic and Business Development. The provisions of Section 5 of this act shall not become operative if Senate Bill 28 does not become effective or does not establish a Department of Economic and Business Development.

CHAPTER 1230

An act to amend Sections 8000, 8002, 8004, 46140, 52310.5, 52314, 52321, 52501.5, and 52612 of, to amend the heading of Article 1 (commencing with Section 8000) of Chapter 1 of Part 6 of, to add Sections 46140.5 and 46617.5 to, and to repeal Section 46617.5 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. The heading of Article 1 (commencing with Section 8000) of Chapter 1 of Part 6 of the Education Code is amended to read·

Article 1. California Advisory Council on Vocational Education

SEC. 2. Section 8000 of the Education Code is amended to read:

8000. The California Advisory Council on Vocational Education, hereinafter referred to as the council in this article, is hereby created, consisting of the Director of the Employment Development Department or his representative, the Director of the Department of Rehabilitation, or his representative, the Secretary of the Health and Welfare Agency, or his representative, the Chairperson of the Comprehensive Employment and Training Council, or his designee, a member of the Assembly Education Committee appointed by the Speaker of the Assembly, a member of the Senate Education Committee appointed by the Senate Committee on Rules and 19 members appointed by the Governor.

Appointed council members shall be appointed for terms of three years or until a successor has been appointed except that members appointed for the fiscal year 1978–79, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each, and appointments to fill vacancies shall be for such terms as remain unexpired. The council shall have as a majority of its members lay persons who are not professional educators or administrators currently in the field of education.

Nothing in this article shall prevent the reappointment or replacement of any individual serving on the council, provided any such reappointment is in conformity to all of the criteria established in this article Any individual serving on the council on the operative date of the amendment to this section enacted in 1977 may continue to serve beyond October 1, 1977, or until a replacement is appointed or the individual is reappointed, but in no event may such an individual serve more than 90 days after such operative date.

Any members of the council missing three consecutive meetings, not through sickness or absence from the state, shall forfeit their office, thereby creating a vacancy.

SEC. 3. Section 8002 of the Education Code is amended to read

8002 The members appointed by the Governor shall include

(a) One person familiar with the vocational education needs and problems of organized labor.

(b) One person familiar with the vocational needs and problems of management

(c) One person familiar with the vocational needs and problems of agriculture.

(d) One person familiar with the administration of state and local vocational education programs and who is serving as a superintendent or other administrator of a local educational agency or county schools office.

(e) One person having special knowledge, expertise, or qualifications with respect to vocational education who is not involved in the administration of state or local vocational education programs.

(f) One person familiar with teaching public programs of vocational education in comprehensive secondary schools.

(g) One person representing community college governing boards.

(h) One person representing secondary school governing boards.

(i) One person representing junior and community colleges and who is teaching in an occupational education program.

(j) One person representing school districts with large concentrations of academically, socially, economically, and culturally disadvantaged pupils, and limited-English-speaking persons.

(k) One person with special knowledge, experience, or qualifications with respect to the special educational needs of physically, emotionally, or mentally handicapped persons.

(*l*) One person who is a pupil currently enrolled in a vocational education program.

(m) Two persons representing the general public, one of whom shall represent and be knowledgeable about the poor and disadvantaged.

(n) One person representing other institutions of postsecondary education and who is employed by a private postsecondary institution.

(o) One person representing and familiar with nonprofit private schools.

(p) One person with special knowledge, experience or qualifications with respect to vocational guidance and counseling services.

(q) One woman with background and experience in employment and training programs, and who is knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment and of sex stereotyping in vocational education.

(r) One woman who is a member of a minority group or who has, in addition, background and experience, or special knowledge of the problems of discrimination in job training and employment against women who are members of such groups.

Members of the council may not represent more than one of the above specified categories, and there shall be an appropriate representation of both sexes, racial, and ethnic minorities, and the various geographic regions of the state.

SEC. 4. Section 8004 of the Education Code is amended to read:

8004. The council shall have the following duties and responsibilities:

(a) Advise the State Board of Education and the Board of Governors of the California Community Colleges in the development and preparation of annual and long-range state plans for occupational education and training, and an annual accountability report.

(b) Prepare and submit a statement to appropriate public agencies, as required pursuant to law, describing its consultation with the State Board of Education, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission on the state plans to the United States Commissioner of Education.

(c) Advise the State Board of Education, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission on policy matters arising in the administration of programs under such plans and reports.

(d) Evaluate programs, services, and activities of occupational education and training and publish and distribute the results thereof.

(e) Prepare and submit through the State Board of Education, the Board of Governors of the California Community Colleges, and the California Postsecondary Education Commission to the Legislature, United States Commissioner of Education, and the National Advisory Council on Vocational Education, an annual evaluation report accompanied by such additional comments as the state board and the board of governors deem appropriate which (1) evaluates the programs and services carried out in the year under review to meet the objectives set forth in the state plans; (2) utilizes accountability and program evaluation reports prepared pursuant to Section 112 of Public Law 94-482 by the State Board of Education; (3) recommends such changes as may be warranted by the evaluations.

(f) Consult with the Comprehensive Employment and Training Advisory Council to determine the extent to which the vocational education and employment training needs of the state are being met and assess the extent to which vocational education, employment training, vocational rehabilitation and other programs assisted under this and related acts represent a consistent, integrated, and coordinated approach to meeting such needs; and comment, at least once annually on the reports of the Comprehensive Employment and Training Advisory Council, which comments shall be included in the annual report submitted by the council pursuant to this section and in the annual report submitted by the Comprehensive Employment and Training Advisory Council pursuant to Section 107 of the Comprehensive Employment and Training Act of 1973.

(g) Perform functions identical with or analogous to those stated in subdivisions (a) to (e), inclusive, with respect to programs carried out under Part B of Title X of Public Law 92-318, and Title I, Part I of Public Law 94-482.

(h) Provide technical assistance to local advisory committees or councils established pursuant to Section 8070.

SEC. 5. Section 46140 of the Education Code is amended to read.

46140 No pupil in a high school, other than a pupil enrolled in a regional occupational center or program, evening high school, continuation high school, or continuation education class, shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.

SEC 6. Section 46140.5 is added to the Education Code, to read:

46140.5. Any school district which was credited with attendance of pupils pursuant to Section 46140 under a vocational education program occupationally organized and conducted under federal approval in 1976–77, other than a regional occupational program or regional occupational center, may request the county superintendent of schools to increase the district base revenue limit for fiscal year 1977–78 and fiscal years thereafter by the amount of revenue received on account of such vocational education attendance in 1976–77. The county superintendent, upon verification of such amounts, shall adjust the district's base revenue limit.

SEC. 7. Section 46617.5 of the Education Code is repealed.

SEC. 8. Section 46617.5 is added to the Education Code, to read:

46617.5. A regional occupational program or regional occupational center maintained by a school district, or a regional occupational program or regional occupational center maintained by two or more school districts pursuant to a joint powers or cooperative agreement, may admit pupils who reside outside the attendance area of such regional occupational program or regional occupational center by written agreement with the school district in which the pupils reside. If the pupils reside within a school district participating in a regional occupational program or regional occupational center maintained by a county superintendent of schools the agreement shall be approved by the county superintendent. If the pupils reside in a school district participating in a regional occupational program or regional occupational center pursuant to a joint powers or cooperative agreement, the agreement shall be approved by the governing board of the district or districts maintaining the program.

A county superintendent of schools may admit to regional occupational programs or regional occupational centers, pupils who reside in school districts which are not participating in such regional occupational programs or regional occupational centers, by written agreement with the school district in which the pupils reside. If the pupils reside in a school district participating in a regional occupational program or regional occupational center pursuant to a joint powers or cooperative agreement, the agreement shall be approved by the governing board of the district or districts maintaining the program.

A regional occupational center or program established and maintained pursuant to Section 52301 which admits students by agreement pursuant to this section shall receive in annual operating

funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by such districts for each unit of average daily attendance generated in the regional occupational center or program.

However, no district shall be required to pay more than the county revenue limit as determined pursuant to Section 52317 in those instances where the county is maintaining the regional occupational center or program, or the actual cost per unit of average daily attendance in those regional occupational centers or programs which are operated pursuant to a joint powers agreement or cooperative arrangement. The fiscal arrangements shall be specified in the written agreement.

In no case shall any revenue derived from average daily attendance in regional occupational centers and programs be retained by the district of residence.

SEC. 9. Section 52310.5 of the Education Code is amended read:

52310.5. (a) Each regional occupational program or center shall be maintained by, and subject to the authority and control of, its governing board.

(b) The governing board of a regional occupational program or center maintained by a single school district is the governing board of the school district.

(c) The governing board of a regional occupational program or center maintained by a county superintendent of schools is the county board of education.

(d) The governing board of a regional occupational program or center established by two or more school districts pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, shall consist of at least one member of the governing board of each of the school districts cooperating in such regional occupational program or center, such member to be selected by the governing board of the district represented by that member.

(e) Any other cooperative agreement established after 1965 to establish a regional occupational program or center pursuant to Section 52301 shall have a governing board which shall consist of at least one member of the governing board of each of the school districts cooperating in such regional occupational program or center. Each such member is to be selected by the governing board of the district represented by that member.

SEC. 10. Section 52314 of the Education Code is amended to read:

52314. Any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is eligible to attend a regional occupational center or

regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any such cooperating school districts may admit to such center, or program, any pupil, otherwise eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to such center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults under Section 52610 shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his admission to the regional occupational center or regional occupational program.

A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be.

A county superintendent of schools maintaining a regional occupational program or regional occupational center may admit pupils residing in the county but outside of school districts participating in the county regional occupational program or regional occupational center pursuant to the provisions of Section 46617.5. The county superintendent of schools may authorize pupils who reside in school districts participating in the regional occupational center or regional occupational program conducted by the county superintendent of schools to enroll in other regional occupational programs or regional occupational centers when it is determined that it is in the best interest of the pupils to do so. Such attendance shall be pursuant to an attendance agreement specifying that the county superintendent of schools authorizes the regional occupational center or regional occupational program conducting the classes to report the average daily attendance in the classes to the district of residence for the purpose of receiving state apportionments and determining the revenue limit. The agreements shall specify that the district of residence shall pay the regional occupational program or regional occupational center the actual cost per unit of averge daily attendance.

SEC. 11. Section 52321 of the Education Code is amended to read:

52321. A regional occupational center or program established and maintained pursuant to Section 52301 shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by such districts for each unit of average daily attendance generated in the regional occupational center or program.

However, no district shall be required to pay more than the county revenue limit as determined pursuant to Section 52317 in those instances where the county is maintaining the regional occupational center or program, or the actual cost per unit of average daily attendance in those regional occupational centers or programs which are operated pursuant to a joint powers agreement or cooperative arrangement.

In no case shall any revenue derived from average daily attendance in regional occupational centers and programs be retained by the district of residence.

Any regional occupational center or program is authorized to (a) budget and accumulate an amount necessary to meet the cash flow needs of the regional occupational center or program known as a general reserve, not to exceed 10 percent of the previous year's expenditures for the operation of the regional occupational center or program and (b) budget and accumulate an amount known as an appropriation for contingencies. The appropriation for contingencies is intended to provide for unforeseen requirements and shall be available for appropriation only after approval by a two-thirds vote of the governing body, and limited to 5 percent of the previous fiscal year's expenditures for the operation of the regional occupational center or program.

Net ending balances, exclusive of capital outlay balances accumulated through the regional occupational center and program restricted capital outlay tax authorized by Sections 52312 and 52317, in excess of 15 percent of the amount expended in the prior year, shall be deemed to be excessive regardless of the year accumulated.

Net ending balances in excess of 15 percent shall be returned to the districts participating in the regional occupational center or program in proportion to the district's contribution to the regional occupational center or program. The county superintendent of schools shall subtract from the amount of money necessary to be raised by the district's general purpose taxes, an amount equal to the excess reserves which are required to be returned to the district.

SEC. 12. Section 52501.5 of the Education Code is amended to read:

52501.5. (a) Except as provided in subdivision (b), no revenue derived from the average daily attendance of adult education programs shall be expended for other than adult education purposes. Nor shall revenue derived from other average daily attendance be expended for adult education purposes.

(b) When a district's adult revenue limit as allowed by Section 43001 is composed of average daily attendance from both a regional occupational center or program and an adult education program, the adult revenue limit income may be allocated to each program in a proportion other than the amount of adult revenue limit per average daily attendance otherwise allocable thereto.

(c) Beginning with the 1976–77 fiscal year, any high school or unified school district may (1) budget and accumulate an amount

necessary to meet the cash flow needs of the adult education program, known as a "general reserve," not to exceed 10 percent of the previous year's expenditures for the operation of the adult education program and (2) budget and accumulate an amount known as an "appropriation for contingencies." The appropriation for contingencies is intended to provide for unforeseen requirements and shall be available for appropriation only after approval by a two-thirds vote of the governing body, and limited to 5 percent of the previous fiscal year's expenditures for the operation of the adult education program.

Net ending balances in excess of 15 percent of the amount expended in the prior year shall be deemed to be excessive regardless of the year accumulated. The county superintendent of schools shall subtract from the amount of money necessary to be raised by the district's general purpose taxes for adults, an amount equal to the excess reserves in the adult education program.

SEC. 13. Section 52612 of the Education Code is amended to read:

52612. Except as specified in this section, an adult enrolled in a class for adults may be required by the governing board of the district maintaining the class to pay a fee for such class. No charge of any kind shall be made for a class in English and citizenship for foreigners or a class in an elementary subject. No fee charge shall be made for a class designated by the governing board as a class for which high school credit is granted when such class is taken by a person who does not hold a high school diploma. The total of the fees required and revenues derived from average daily attendance shall not exceed the estimated cost of all such classes maintained, including the reserves authorized by Section 52501.5.

SEC. 14. Sections 7 and 8 respectively, of this act repealing and adding Section 46617.5 of the Education Code shall become operative on July 1, 1978.

SEC. 15. There is hereby appropriated from the General Fund to the Department of Education the sum of twenty-two thousand one hundred fifty dollars ($22,150) for allocation to the Shasta County Regional Occupational Program for programs conducted during the 1976–77 fiscal year.

SEC. 16. The Legislature finds and declares that with respect to Section 15 of this act a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable because of a unique situation which has arisen with respect to the Shasta County Regional Occupational Program, and the inclusion therein of pupils from Trinity County. Educational services have already been provided to some of such pupils and it is essential that the program be paid the state's share of the cost of such services since the program's expenditures were based upon assurances of the receipt of state funds.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are

In order to permit this act to be operative for the entire 1977–78 fiscal year, and so to permit the orderly and efficient operation of the programs to which this act relates, it is necessary that this act take effect immediately

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CHAPTER 1231

An act to amend Sections 823 and 830 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 823 of the Unemployment Insurance Code is amended to read:

823. (a) For the purpose of payment, by each school employer as defined in Section 135.3, of all or part of the charges for unemployment compensation benefits, fees, assessments, interest, penalties, billings, notices, and other expenses of unemployment insurance for classified school employees pursuant to Sections 45208 and 88208 of the Education Code, moneys budgeted pursuant to subdivisions (b) and (c) of this section shall be remitted by the school employer or on the school employer's behalf by the county auditor to the State Treasurer pursuant to this article, and shall be deposited in the Classified School Employees Fund.

(b) For each fiscal year, except as provided in subdivision (c), each school employer employing classified school employees shall budget and remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the Classified School Employees Fund in the State Treasury one-half percent (0.5%) of total wages, including taxable wages as well as wages which would be taxable except for the limitation on taxable wages provided under Section 930, but excluding wages paid for specially funded projects.

(c) For the 1976–77, 1977–78, and 1978–79 fiscal years only, each school employer employing classified school employees shall budget and remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the Classified School Employees Fund in the State Treasury two-tenths of one percent (0.2%) of total wages, including taxable wages as well as wages which would be taxable except for the limitation on taxable wages provided under Section 930, but excluding wages paid by specially funded projects.

SEC. 2 Section 830 of the Unemployment Insurance Code is amended to read:

830. (a) For the purpose of financing unemployment insurance coverage for classified employees employed by the school employers under specially funded projects, the funding agency shall remit to each school employer two and seven-tenths percent (2.7%), except as provided for in subdivision (b), plus the rate in effect under Section 976.5, of the taxable wages paid to such employees. The school employer or county auditor shall remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the Classified School Employees Fund in the State Treasury such an amount, whether or not received from the funding agency, for deposit. Such funds become the property of the fund and shall not be held exclusively for employees for specially funded projects.

(b) For the 1976–77, 1977–78, and 1978–79 fiscal years only, for the purpose of financing unemployment insurance coverage for classified employees employed by the school employers under specially funded projects, the funding agency shall remit to each school employer one percent (1%) of the total wages paid to such employees. The school employer or county auditor shall remit such funds to the State Treasurer as provided in subdivision (a).

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The existing unemployment insurance tax rate is in excess of the amount needed to finance unemployment insurance for classified employees and in order to reduce the amount of moneys in the Classified School Employees Fund beginning with the commencement of the 1977–78 fiscal year, this act must take effect immediately.

CHAPTER 1232

An act to amend Sections 5012, 5032, and 5326 of the Education Code, relating to schools.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 5091 of the Education Code, as amended by Chapter 750 of the Statutes of 1977, is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college

district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either call an election or make a provisional appointment to fill the vacancy

(b) When an election is called, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 98 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools

(c) If a provisional appointment is made within the 30-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the appropriate percentage of registered voters of the district who voted in the last regular election for governing board members, as follows:

(1) In districts in which less than 75,000 voters voted 5 percent of the number of such voters.

(2) In districts in which 75,000 or more, but less than 200,000, voters voted 3,750 plus 2½ percent of the number, over 75,000, of such voters.

(3) In districts in which 200,000 or more voted 6,875 plus 1 percent of the number, over 200,000, of such voters.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the appointee during the 30-day period following his appointment and within which a petition calling for special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

CHAPTER 1233

An act to amend Section 14876 of, and to add Section 22754.2 to, the Government Code, relating to the Office of State Printing and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 14876 of the Government Code is amended to read:

14876 (a) Pressmen, typographers, linotypers, compositors, bookbinders, lithographers, engravers, apprentices and assistants and all other employees of the Office of State Printing employed in allied work shall be paid on an hourly wage basis The basic wage of such employees shall be the prevailing hourly wage paid to persons identified by the State Personnel Board to be in similar and comparable employment by private printers in the major metropolitan areas in California. The State Personnel Board shall accept and give validity to certified copies of agreed upon contracts submitted by either the employer, the employer group, or the employee organization.

The State Personnel Board shall survey only major employers where there are agreed upon contracts. Where any such contract contains any provision or provisions which do not reflect the actual practice of the employer, the State Personnel Board shall disregard such provision or provisions.

If the State Personnel Board finds that salary relationships between surveyed classes do not accurately reflect relationships in duties and responsibilities of employees of the Office of State Printing, the board shall adjust such wage rates on an equitable basis notwithstanding the survey findings

As used in this section, prevailing wages and prevailing benefits means wages and benefits arrived at through negotiation between an employer or employer organization, and an employee organization which is the bona fide representative of the employer's employees and certified as such by the Director of Industrial Relations. In order to be so certified, the employee organization shall be free from employer influence and domination.

(b) In addition to such wages, and the rights and privileges afforded state employees under the provisions of the State Civil Service Act, and other statutes, there shall be paid to each such employee of the Office of State Printing, either directly or to a health and welfare fund on his or her behalf, an amount equal to the prevailing individual contributions paid to health and welfare plans for employees in similar and comparable employment by private printers in the major metropolitan areas. Where such contracts do

not disclose the dollar value of health and welfare benefits, the state shall provide the same or substantially the same level of benefits as provided for in such agreed upon contracts. Any adjustments made pursuant to subdivisions (a) and (b) of this section shall be effective as of March 1, 1977, and each March 1, thereafter.

(c) As an alternative to subdivision (b), persons employed and retired from employment in the Office of State Printing may elect within 90 days of the effective date of the amendments to this section enacted at the 1977–78 Regular Session of the Legislature to be covered under the State Employees' Medical and Hospital Care Act pursuant to Section 22754.2.

A person first employed to any position described in subdivision (a) after the effective date of the amendments to this section enacted at the 1977–78 Regular Session of the Legislature may elect to become an "employee" as defined in Section 22754.2 within 90 days of commencing such employment.

Any person who is a member of a health and welfare plan described in subdivision (b) who loses eligibility for participation in such plan, or if the plan of which the person is a member ceases to exist, such person may elect to become an "employee" as defined in Section 22754.2 within 90 days of the date such eligibility is lost or the plan ceases to exist.

(d) In no instance shall the wages and the health and welfare contributions paid by the state to the persons covered under this section be less than the dollar amount paid as of the effective date of this section.

SEC. 2. Section 22754.2 is added to the Government Code, to read:

22754.2. As used in this part:

(a) The term "employee" includes all employees in job classes specified in subdivision (a) of Section 14876 who enroll in a health benefits plan within 90 days of the effective date of this section, and all persons first employed in such job classes after the effective date of this section.

(b) The term "annuitant" includes persons retired from a job class specified in subdivision (a) of Section 14876 who enroll in a health benefits plan within 90 days of the effective date of this section.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that a statewide salary survey process may be developed and implemented, that salaries of Office of State Printing employees may be reassessed, and that these employees may be compensated, it is necessary that this act take effect immediately.

CHAPTER 1234

An act to add Section 55601.6 to the Food and Agricultural Code, relating to grapes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 55601.6 is added to the Food and Agriculture Code, to read:

55601.6. To provide funds to carry out the provisions of Section 55601.5, each processor who crushes grapes in California shall pay to the director the amount determined by the director to be necessary to cover these costs, but not to exceed two cents ($0.02) per ton of grapes received for crushing, fresh weight equivalent, during each marketing season beginning July 1 and ending the following June 30, provided that one cent ($0.01) per ton of grapes received for crushing, or one-half of the fee if the fee is less than two cents ($0.02), shall be paid by the processor who crushes grapes and that one cent ($0.01) per ton of grapes received for crushing including any grapes produced by the processor, or one-half of the fee if the fee is less than two cents ($0.02), shall be deducted and paid by the processor who crushes grapes from moneys owed to the producer.

The amount of such fee shall be paid to the director on or before January 10 of each year on all grapes received for crushing through December 15. The amount of such fee on any grapes received for crushing after December 15 shall be paid to the director on or before June 30 of that marketing season.

The director may fix such fee at a lesser amount and may adjust such fee from marketing season to marketing season.

Any processor who crushes grapes who fails, neglects, or refuses to pay the required fee shall be in violation of this chapter as provided for in subdivision (i) of Section 55601.5. Any processor who crushes grapes shall not be entitled to pass any such penalty on to the producer of such grapes.

All moneys received under the provisions of this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund.

SEC. 2. Section 1 of this act shall become operative July 1, 1978.

SEC. 3. There is hereby appropriated from the General Fund in the State Treasury the sum of twenty-seven thousand dollars ($27,000) to the Department of Food and Agriculture, for the 1977–78 fiscal year, for the purposes of carrying out the provisions of Section 55601.5 of the Food and Agricultural Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are.

The grape industry is reliant upon the grape crush report required by Section 55601.5 of the Food and Agricultural Code in order to accurately and fairly determine grape prices. To be of value for this harvesting season, the report is needed immediately and cannot be prepared within existing funding of the Department of Food and Agriculture. In order to fund such report for this harvesting season, it is necessary for this act to take effect immediately.

CHAPTER 1235

An act to add and repeal Chapter 3 (commencing with Section 20300) of Division 10 of the Water Code, relating to emergencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1977 Filed with Secretary of State October 1, 1977]

I am reducing the appropriation in Section 2 of Senate Bill No 469 from $5,000,000 to $1,000,000 by deleting the $4,000,000 appropriation in Subsection (a)

That money will not help farmers for the 1977 growing season which is ending I have signed three bills providing significant tax relief to drought-stricken farmers, along with other bills designed to assure agriculture's share of dwindling water supplies

If the drought persists into the 1978 growing season, I will work with the legislature and those in agriculture to seek appropriate state and federal assistance

With this reduction, I approve Senate Bill No 469

EDMUND G BROWN JR , Governor

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

SECTION 1. Chapter 3 (commencing with Section 20300) is added to Division 10 of the Water Code, to read:

CHAPTER 3. CALIFORNIA DROUGHT DISASTER RELIEF ACT OF 1977

Article 1. Policy and Definitions

20300. This chapter shall be known and may be cited as the California Drought Disaster Relief Act of 1977.

20301. The Legislature hereby finds and declares that drought conditions existing in this state since 1975 have created water shortages resulting in direct economic loss to agriculture, urban dwellers, and the state economy.

20302. The Legislature further finds and declares that it is the state policy to provide economic assistance to agriculture in the state suffering economic hardship resulting from existing drought

conditions. It is the intent of the Legislature not to duplicate federal assistance programs nor undertake assistance actions which are available to individual farmers or ranchers through other public programs. It is the purpose of this chapter to provide assistance to individuals and certain groups with an economic capability of recovery and loan repayment following the termination of the current drought.

20303. For the purposes of this chapter:

(a) "Fund" means the California Drought Disaster Relief Fund.

(b) "Program" means the Drought Disaster Relief Assistance Program as provided in this chapter.

Article 2. Loans

20310. There is in the State Treasury the California Drought Disaster Relief Fund, which fund is hereby created. Moneys in such fund are continuously appropriated to the State Treasurer for the purpose of financing water development and water delivery systems to replace losses of water supplies caused by drought as provided in this chapter. The State Treasurer may use the moneys in the fund for defraying the costs of establishing and administering such loan program, in an amount of not to exceed 5 percent of the amount appropriated to the fund. Moneys received by the State Treasurer on account of payments of the principal of, or interest on, such loans shall be deposited in the fund.

20311. The State Treasurer may, pursuant to this chapter, establish a program of loans for the purpose of developing water supplies and providing for delivery of water to replace water losses caused by drought and as limited further in this article The loans made pursuant to this chapter shall be made and the loan program shall be directly administered by the State Treasurer.

20312. The State Treasurer shall implement this program as soon as practicable after the effective date of this chapter, in order that the maximum relief from the effects of the drought may be accomplished.

20313. The State Treasurer shall allocate funds available for loans among the various types of eligible farmers and ranchers and areas impacted by severe drought in the state in the interest of maintaining the highest possible agricultural productivity through the period of drought emergency.

20314. The State Treasurer may consult with, or seek the advice of, the Director of Water Resources, the Director of Food and Agriculture, the State Board of Food and Agriculture, the California Water Commission, and any other private or public agency or person in order to establish drought relief objectives and technical and market criteria for the loan program in order to best serve the purposes of this chapter and provide the greatest impact, and may require limitation of the size of loans on an individual owner or acreage basis.

The State Treasurer shall enter into an interagency agreement with the Director of Food and Agriculture to utilize the staff of the Department of Food and Agriculture for technical assistance in carrying out the provisions of this chapter, so as to best benefit the agricultural community of the state.

20315. An individual, partnership, or corporation may qualify for relief from the drought conditions of 1977 under this chapter, if all of the following are met·

(a) Applicant has an agricultural production history predating June 1, 1975

(b) Applicant receives at least 75 percent of his or her average total gross income, for the immediately preceding three tax years, from agricultural production.

(c) Applicant has an annual average gross sales, for the immediately preceding three tax years, from agricultural production of at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

(d) Applicant is unable to obtain federal financial assistance within a time period determined by the State Treasurer to be necessary for such aid to be effective, within the purposes of this chapter.

(e) If eligible for conventional financing, applicant shall demonstrate that severe hardship will result from following this conventional financing.

(f) Applicant has a reasonable economic capability of recovery and loan repayment following the termination of the current drought.

20316. No applicant may receive more than fifty thousand dollars ($50,000) in assistance provided by this chapter. If applications for loans exceed the amount of funds appropriated under this chapter, the State Treasurer shall establish loan priorities and additional loan amount restrictions which shall attempt to maximize the benefits provided by this chapter.

20317 Loans, under this chapter, may be made as follows·

(a) Loans shall be made only for the purpose of developing ground water facilities, converting existing irrigation systems to more water use effective systems, hauling or storing water for livestock or crops, and temporary water conveyance systems, for the growing of agricultural products and maintaining livestock.

(b) Loan funds may only be provided for those activities necessary to replace water deliveries lost as a result of drought conditions and shall not be greater than the water amounts lost.

(c) Loan funds may be used only to assist in continuing agricultural practices on land in agricultural use prior to January 1, 1976, and may not be used to expand or enhance developments or delivery systems installed after that date.

(d) A system of loan eligibility priorities shall be established to:

(1) Assist in replacing water losses on land which does not receive water from any federal water project.

(2) Any remaining funds may be used to assist in replacing water lost as a result of reduced federal project deliveries.

(e) All loans shall bear an interest rate of 2½ percent over a maximum 10-year term with payments on both principal and interest deferred for the first two years at the discretion of the borrower.

20318. The provisions of this chapter shall only apply with respect to land situated in an area which, either before or after the effective date of this chapter, has been declared by the Governor, the President of the United States, or a federal agency, upon the request of the Governor, to be a disaster area by reason of drought conditions.

20319. The State Treasurer may enter into contracts with private lending institutions in order to best serve the purposes of this chapter and to provide for the screening, processing, awarding, disbursement, servicing, and termination of loans in accordance with criteria established pursuant to the provisions of this article

Article 3. Termination

20320. This chapter shall remain in effect only until January 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1979, deletes or extends such date.

SEC. 2. There is hereby appropriated from the General Fund in the State Treasury the sum of five million dollars ($5,000,000) to the State Treasurer for allocation as follows:

(a) Four million dollars ($4,000,000) to the California Drought Disaster Relief Fund for purposes of carrying out the provisions of Chapter 3 (commencing with Section 20300) of Division 10 of the Water Code.

(b) One million dollars ($1,000,000) to the Department of Finance for allocation pursuant to the provisions of Section 128 of the Water Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Because of the extreme drought conditions existing in many areas of California, and the abnormally deficient condition of water reservoir supplies, agricultural producers in a large portion of the state are unable to continue normal agricultural production. Thus, their incomes will be drastically reduced, jobs will be lost, the state economy will be severely affected and food supplies may be imperiled. In order to provide some remedy for this situation and to help assure a continuing supply of food, jobs, and income, it is necessary for this act to take effect immediately in order for water to be made available during the growing season.

CHAPTER 1236

An act to amend Section 10104 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, relating to bilingual education, and making an appropriation therefor.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

I am deleting the $525,000 appropriation contained in Section 2 of Assembly Bill No 579

It would be inappropriate to commit additional funds to this program without further evaluation

With this deletion, I approve Assembly Bill No 579

EDMUND G BROWN JR , Governor

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

SECTION 1. Section 10104 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

10104. There is hereby established a Bilingual-Crosscultural Teacher Development Grant Program. The Student Aid Commission shall administer the Bilingual-Crosscultural Teacher Development Grant Program The Student Aid Commission shall evaluate candidates for grants in consultation with the Commission for Teacher Preparation and Licensing. The Student Aid Commission shall adopt such rules and regulations as are necessary for the effective administration of the Bilingual-Crosscultural Teacher Development Grant Program after consultation with the Commission for Teacher Preparation and Licensing Initial regulations shall be adopted within 120 days after January 1, 1978. All grants shall be made on the basis of financial need. Grants shall be awarded to individuals who are most likely to qualify for a bilingual certificate of competence within two years. Not less than 60 percent of the funds shall be made available for grants to certificated teachers providing instruction in programs defined by subdivision (a), (b), or (c) of Section 52163 and who do not meet the bilingual-crosscultural teacher certification requirements defined by subdivision (h) of Section 52163 and who are teaching with a waiver granted pursuant to Section 52178. However, if there are insufficient applicants from the aforementioned group of certificated teachers to utilize 60 percent of the funds, the remaining funds shall be made available to eligible noncertificated applicants. Grant recipients shall engage in a program of study which leads to a certificate of bilingual-crosscultural competence or any other credential in bilingual education authorized by the Commission for Teacher Preparation and Licensing. Not less than 30 percent of the funds available for grants shall be made to noncredentialed upper division and graduate students pursuing a course of study leading to a teaching credential with a bilingual-crosscultural emphasis. Grants

may be used to cover tuition, fees, and subsistence expenses and shall supplement and not supplant other state and federal student financial aid programs. Grants may be renewed, provided that the student satisfactorily completes 18 quarter units or 12 semester units per year. No student may receive grants for a period of more than two academic years, including summer sessions. No grant shall exceed three thousand dollars ($3,000) per academic year, including summer sessions.

SEC. 2. There is hereby appropriated from the General Fund the sum of five hundred twenty-five thousand dollars ($525,000) to the Student Aid Commission for the purposes of funding and administering the Bilingual-Crosscultural Teacher Development Grant Program pursuant to Chapter 2 (commencing with Section 10100) of Part 7 of the Education Code to be allocated as follows:

(a) For administration, evaluation, and grants for the 1977–78 fiscal year $175,000

(b) For administration, evaluation, and grants for the 1978–79 fiscal year $350,000

provided, that not more than 10 percent of the amounts appropriated by th s act shall be used for administration.

Funds appropriated to the Student Aid Commission pursuant to this act which are not expended in the fiscal year for which they were allocated may be carried over to the next fiscal year and expended during such subsequent fiscal year.

CHAPTER 1237

An act to amend Section 1370 of the Penal Code, and Sections 1754 and 2201 of, and to add Section 2201.5 to, the Probate Code, and to amend Section 5353 of the Welfare and Institutions Code, relating to incompetence.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 1370 of the Penal Code, as amended by Chapter 695 of the Statutes of 1977, is amended to read:

1370. (a) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent, the trial or judgment shall be suspended until he becomes mentally competent, and the court shall order that (1) in the meantime, the defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered or to any other available public or private mental health treatment facility approved by the county mental health director as

will promote the defendant's speedy restoration of mental competence, or be ordered to undergo outpatient treatment as specified in Section 1370.3 and (2) upon his becoming competent, he be redelivered to the sheriff to be returned to court where the criminal process shall resume. The court shall transmit a copy of its order to the county mental health director or his designee.

If the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery in the first degree or in which the victim suffers great bodily injury, a violation of Section 447a involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) and (3) of Section 261, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 12303 1, 12303.3, 12308, 12309, or 12310, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the court shall direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to Section 1374. Prior to release on outpatient treatment, such defendant shall be returned to court for a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his own recognizance

Prior to making such order, the court shall order the county mental health director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other mental health facility. No person shall be admitted to a state hospital or other facility or accepted for outpatient treatment under this section without having been evaluated by the county mental health director or his or her designee.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the county mental health director that the defendant be transferred to a public or private mental health facility approved by the county mental health director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private mental health facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private mental health facility approved by the county mental health director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable

provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). The defendant or prosecuting attorney, if he chooses to contest either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or his designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the superintendent of the state hospital or other facility to which the defendant is committed or from which the defendant is placed on outpatient treatment shall make a written report to the court and the county mental health director or his designee concerning the defendant's progress toward recovery of his mental competence. If the defendant has not recovered his mental competence, but the report discloses a substantial likelihood the defendant will regain his mental competence in the foreseeable future, he shall remain in the state hospital or other facility or on outpatient treatment. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the superintendent of the hospital or person in charge of the facility shall report to the court and the county mental health director or his designee regarding the defendant's progress toward recovery of his mental competence. If the report indicates that there is no substantial likelihood that the defendant will regain his mental competence in the foreseeable future, the committing court shall order him to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the county mental health director or his designee.

(2) If, after the defendant has been committed or has undergone outpatient treatment for 18 months, he is still hospitalized or on outpatient treatment pursuant to this section, he shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the county mental health director or his designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court.

(4) The superintendent or person in charge of the facility shall deliver the reports made pursuant to paragraph (1) to the committing court and to the county mental health director or his designee, which shall provide a copy thereof to the defendant, his attorney of record, and any other interested person specified by the defendant.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered his mental competence, he shall be returned to the committing court. The court shall notify the county mental health director or his designee of such return and of any resulting court orders

(2) Whenever any defendant is returned to the court pursuant to paragraph (2) of subdivision (b) or paragraph (1) of subdivision (c) and it appears to the court that the defendant is gravely disabled as defined in paragraph (2) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for such defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county which ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the county mental health director or his designee

(d) The criminal action remains subject to dismissal pursuant to Section 1385.

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, which may be appropriate

SEC. 2. Section 1754 of the Probate Code, as amended by Chapter 453 of the Statutes of 1977, is amended to read

1754 Any person or any relative or friend of any person, other than a creditor of the proposed conservatee, may file a verified petition alleging that the appointment of a conservator is required The petition shall set forth, so far as they are known to the petitioner, the names and residences of the spouse, if any, and of the relatives of the proposed conservatee within the second degree. Upon the filing of the petition, the clerk shall set the petition for hearing by the court Notice of the nature of the proceedings and of the time and place of the hearing on the petition shall be mailed by the petitioner to the spouse, if any, and to each of such relatives, and if the proposed conservatee is an "absentee," as defined in Section 1751.5, to the secretary concerned or to the head of the United States department or agency concerned, as the case may be, at least 15 days before such hearing date. If the proposed conservatee is an "absentee," as defined in Section 1751 5, such notice shall also be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation in the county in which the proceedings will be held.

If the petition is filed by a person other than the proposed conservatee, the clerk shall issue a citation directed to the proposed conservatee setting forth the time and place of the hearing. The citation shall include a specific delineation of the legal standards by which the need for a conservatorship is adjudged as stated in Section 1751, and shall state that the proposed conservatee may be adjudged unable to provide for his personal needs or manage his financial resources, and by reason thereof, a conservator may be appointed for his person and property or person or property, that such adjudication may transfer the proposed conservatee's right to contract, manage and control his property, and to fix his residence to the appointed conservator that the court or a court investigator will explain the nature, purpose and effect of the proceeding to the proposed conservatee and answer questions concerning such explanation, that the proposed conservatee shall have the right to appear at such hearing and oppose such petition, that he shall have the right to legal counsel of his own choosing, including the right to have legal counsel appointed for him by the court if he is unable to retain one, and that he has the right to a jury trial if he so desires.

The citation, and a copy of the petition, shall be served upon the proposed conservatee in the same manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court, at least 10 days before the time of the hearing No such citation shall, however, be required if the proposed conservatee is an "absentee," as defined in Section 1751 5.

The proposed conservatee, if he is the petitioner, or if he is in the state at date of service and, if able to attend, shall be produced at the hearing, and, if not able to attend by reason of medical inability, such inability shall be established by the affidavit or certificate of a duly licensed medical practitioner. If the proposed conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of such religion, an affidavit as to his or her medical inability to attend by an accredited practitioner shall be acceptable. Emotional or psychological instability shall not be considered good cause for the absence of the proposed conservatee within the meaning of this section, unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the proposed conservatee. The medical affidavit shall be evidence only of the proposed conservatee's medical inability to attend the hearing and shall not be considered in determining the issue of need for appointment of a conservator. If the proposed conservatee is an "absentee," as defined in Section 1751.5 his inability to attend the hearing shall be established by a certificate complying with Section 1283 of the Evidence Code, showing the determination of the Secretary of the Military Department or the head of the department, or agency concerned or his delegate, as the case may be, that the "absentee" is in missing status.

Upon the receipt of the affidavit or certificate attesting to the proposed conservatee's inability to attend the hearing, the court shall appoint a court investigator to personally interview the proposed conservatee and to inform him as to the contents of the citation, the nature, purpose and effect of the proceeding, and of his right to oppose the proceeding, attend the hearing, have the matter tried by jury and be represented by counsel. The investigator shall also determine whether it appears that the proposed conservatee is unable to attend the hearing, whether the proposed conservatee wishes to contest the establishment of the conservatorship, whether the proposed conservatee objects to the proposed conservator or whether he or she prefers another person to act as conservator, whether the proposed conservatee wishes to be represented by counsel, and if so, whether the proposed conservatee has retained counsel, and if not, the name of an attorney the proposed conservatee wishes to retain

The court investigator shall report his findings, including the proposed conservatee's express statement concerning representation by counsel, in writing, to the court at least five days before the date set for hearing.

As used in this chapter, a "court investigator" or "investigator" is a person trained in law who is an officer or special appointee of the court with no personal or other beneficial interest in proceedings.

Whenever a notice to any officer or agency of this state or of the United States would be required upon a petition for the appointment of a guardian of an alleged incompetent person a like notice shall be given of a petition under this chapter Any officer or agency of this state or of the United States, or the authorized delegate thereof, or any relative or friend of the proposed conservatee, or the proposed conservatee himself, may appear and oppose the petition.

SEC. 3. Section 2201 of the Probate Code is amended to read:

2201 On or after the filing of a petition for the appointment of a conservator, the court, with or without notice as the court or judge may require, upon a verified petition establishing good cause therefor, and filed by any person entitled under Section 1754 to apply for the appointment of a conservator, may appoint a temporary conservator of the person and estate or person or estate of any person (hereinafter called a conservatee) to serve pending the final determination of the court upon the petition for the appointment of a conservator under Chapter 2 of this division.

If a temporary conservator appointed by the court proposes to fix the residence of the conservatee to a place other than that where the conservatee resided prior to the institution of the proceedings, such power shall be requested of the court in writing, unless such change of residence is required of the conservatee by a prior court order The request shall be filed with the petition for conservatorship or, if a temporary conservatorship has already been established, separately The request shall specify in particular the place to which the temporary conservator proposes to move the conservatee, and

the precise reasons why it is believed that the conservatee will suffer irreparable harm if such change of residence is not permitted, and why no means less restrictive of the conservatee's liberty will suffice to prevent such harm.

Within seven days of the date of filing of a temporary conservator's request to remove the conservatee from his or her previous place of residence, the court shall conduct a hearing at which the conservatee shall be present unless such attendance would immediately jeopardize the conservatee's physical survival. The conservatee shall be represented by counsel, as provided in Section 1754, shall be granted the right to confront and cross-examine any witness presented by or on behalf of the temporary conservator and to present evidence on his or her own behalf.

The court may approve the request to remove the conservatee from his or her previous place of residence only if it finds by a preponderance of the evidence that such change of residence is required to prevent irreparable harm to the conservatee, and that no means less restrictive of the conservatee's liberty will suffice to prevent such harm. If an order is made approving the request to remove the conservatee from his or her previous place of residence, the order shall specify the specific place wherein the temporary conservator is authorized to place the conservatee. The temporary conservator shall not be authorized to remove the conservatee from the State of California unless it is additionally shown that such removal is required to permit the performance of specified nonpsychiatric medical treatment, consented to by the conservatee, which is essential to the conservatee's physical survival. A temporary conservator who willfully removes a temporary conservatee from the State of California without authorization of the court is guilty of a felony.

The court shall also order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. Under no circumstances shall a temporary conservator be permitted to sell or relinquish on the conservatee's behalf any lease or estate in real or personal property used as or within the conservatee's place of residence; nor shall the temporary conservator be permitted to sell or relinquish on the conservatee's behalf any estate or interest in other real or personal property without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee.

SEC. 4. Section 2201.5 is added to the Probate Code, to read:

2201.5. Notwithstanding Section 2201, a temporary conservator may remove a temporary conservatee from his or her place of residence without prior court approval if an emergency exists. For the purposes of this chapter, an emergency exists if the temporary conservatee's place of residence is unfit for habitation or if the temporary conservatee has a medical condition which presents an

immediate threat to the temporary conservatee's physical survival.

No later than one judicial day after the emergency removal of the temporary conservatee, the temporary conservator shall file a written request pursuant to Section 2201 for permission to fix the residence of the temporary conservatee other than the temporary conservatee's previous place of residence. Nothing in this chapter shall prevent a temporary conservator from removing a temporary conservatee from his place of residence to a health facility for treatment without court approval when the temporary conservatee has given informed consent to the removal.

SEC. 5. Section 5353 of the Welfare and Institutions Code is amended to read:

5353. A temporary conservator under this chapter shall determine what arrangements are necessary to provide the person with food, shelter, and care pending the determination of conservatorship. He shall give preference to arrangements which allow the person to return to his home, family or friends. If necessary, the temporary conservator may require the person to be detained in a facility providing intensive treatment or in a facility specified in Section 5358 pending the determination of conservatorship. Any person so detained shall have the same right to judicial review set forth in Article 5 (commencing with Section 5275) of Chapter 2 of this part.

The powers of the temporary conservator shall be those granted in the decree, but in no event may they be broader than the powers which may be granted a conservator.

The court shall order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. Under no circumstances shall a temporary conservator be permitted to sell or relinquish on the conservatee's behalf any lease or estate in real or personal property used as or within the conservatee's place of residence; nor shall the temporary conservator be permitted to sell or relinquish on the conservatee's behalf any estate or interest in other real or personal property without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable cost changes and because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1238

An act to amend Sections 726, 731, and 1766 of the Welfare and Institutions Code, relating to juvenile court law, and declaring the urgency thereof, to take effect immediately

[Approved by Governor October 1, 1977. Filed with Secretary of State October 1, 1977.]

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

SECTION 1. Section 726 of the Welfare and Institutions Code is amended to read:

726. In all cases wherein a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over such ward or dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian unless upon the hearing the court finds one of the following facts:

(a) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(b) That the minor has been tried on probation in such custody and has failed to reform.

(c) That the welfare of the minor requires that his custody be taken from his parent or guardian.

In any case in which the minor is removed from the physical custody of his parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

As used in this section and in Section 731, "maximum term of imprisonment" means the longest of the three time periods set forth in paragraph (2) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

If the court elects to aggregate the period of physical confinement on multiple counts, or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the "maximum term of imprisonment" shall be specified in accordance with subdivision (a) of Section 1170.1 of the Penal Code.

If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the Penal Code, the "maximum term of imprisonment" is the longest term of imprisonment

prescribed by law.

"Physical confinement" means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority.

Nothing in this section shall be construed to limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

SEC. 2. Section 731 of the Welfare and Institutions Code is amended to read:

731. When a minor is adjudged a ward of the court on the ground that he is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730, and, in addition may order the ward to make restitution or to participate in uncompensated work programs or may commit the ward to a shelter-care facility or may order that the ward and his family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of such minor or may commit the minor to the Youth Authority.

A minor committed to the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. Nothing in this section limits the power of the Youth Authority to retain the minor on parole status for the period permitted by Section 1769.

SEC. 3. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. When a person has been committed to the authority, it may

(a) Permit him his liberty under supervision and upon such conditions as it believes best designed for the protection of the public;

(b) Order his confinement under such conditions as it believes best designed for the protection of the public, except that a person committed to the Youth Authority pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought the minor under the jurisdiction of the juvenile court, or which resulted in the commitment of the young adult to the Youth Authority. Nothing in this subdivision limits the power of the authority to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771;

(c) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable;

(d) Revoke or modify any order except an order of discharge as often as conditions indicate to be desirable;

(e) Modify an order of discharge if conditions indicate that such

modification is desirable and when such modification is to the benefit of the person committed to the authority;

(f) Discharge him from its control when it is satisfied that such discharge is consistent with the protection of the public.

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

In order to clarify changes made in the extensive revision of the juvenile court law enacted at the 1975–1976 Regular Session of the Legislature, it is imperative that this act shall take effect immediately

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CHAPTER 1239

An act to add Chapter 11 (commencing with Section 1925) to Division 2 of the Fish and Game Code, to add Division 23 (commencing with Section 66000) to the Food and Agricultural Code, and to amend Section 384a of the Penal Code, relating to native plants

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 11 (commencing with Section 1925) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 11 CALIFORNIA NATIVE DESERT PLANTS

1925. The department shall enforce the provisions of the California Desert Native Plants Act (commencing with Section 66000 of the Food and Agricultural Code), except that permits and tags and seals and wood receipts shall be issued pursuant to Chapter 4 (commencing with Section 66250) of Division 23 of the Food and Agricultural Code by the county agricultural commissioner or the sheriff. Nothing in the California Desert Native Plants Act (commencing with Section 66000 of the Food and Agricultural Code), or any other law, shall prohibit the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants, and the provisions of the California Desert Native Plants Act (commencing with Section 66000 of the Food and Agricultural Code) shall not apply to such activities.

1926 In carrying out the provisions of this chapter the department shall cooperate fully with the Department of Food and Agriculture.

SEC. 2. Division 23 (commencing with Section 66000) is added to the Food and Agricultural Code, to read:

DIVISION 23. CALIFORNIA DESERT NATIVE PLANTS

CHAPTER 1. GENERAL PROVISIONS

66000. This division shall be known and may be cited as the California Desert Native Plants Act.

66001. It is the intent of the Legislature in enacting the provisions of this division to protect California desert native plants from unlawful harvesting on both public and privately owned lands. It is also the intent of the Legislature to provide the people of this state with the information necessary to legally harvest native plants so as to ultimately transplant such plants with the greatest possible chance of survival. It is the further intent of the Legislature to encourage public participation in implementing the safeguards established by this division and in evaluating the effectiveness and desirability of such safeguards.

66002. The provisions of this division shall on the effective date of this division be applicable only within the exterior boundaries of the Counties of Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, San Bernardino, and San Diego. The director may thereafter revise the boundaries of the areas of the state which shall be subject to the provisions of this division after an annual public hearing required to be held pursuant to Section 66203 and upon receipt of a resolution approving such change of boundaries by the board of supervisors of the affected county.

CHAPTER 2. DEFINITIONS

66100. Unless the context otherwise requires, the definitions of this chapter govern the construction of this division.

66101. "Landowner" includes the public agency administering any public lands within the areas subject to this division.

66102. "Harvest" means to remove or cut and remove from the place where grown.

66103. "Harvester" means a person who harvests a native plant.

66104. "Director" means the Director of the Department of Food and Agriculture.

66105. "Department" means the Department of Food and Agriculture.

66106. "Tag" means a paper or cloth label that can be attached to a native plant or a commercial load by means of a string and a seal, which tag specifies among other things a serial number, type of plant, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing or landscaping.

66107. "Seal" means a metal, tamper-proof clamp used to

permanently affix the tag to a native plant.

66108. "Resale" means native plants harvested, possessed, or transported with the intent to sell such plants for ultimate landscaping or decoration purposes, or both.

66109. "Resale load" means native plants harvested, possessed or transported for resale purposes.

66110. "Native plant" means any tree, shrub, bulb, or plant or part thereof, except its fruit, named in this division as being under the provisions of this division, which is growing wild on state land or other public land or on privately owned land without being propagated or cultivated by human beings.

66111. "Commercial harvesting" means harvesting native plants for an ultimate use other than as landscaping or decorative material and with the plants' tops, or branches, or both, boughs or limbs removed.

66112. "Permit" means an application form to harvest native plants that has been filled out by the applicant and approved and officially endorsed by the agricultural commissioner or sheriff of the county wherein the native plants covered by such application are located.

66113. "Wood receipt" means a receipt that is to accompany one or more cords of wood that is harvested under the provisions of this division. Such wood receipt shall contain information which specifies, among other things, a serial number, species of wood, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing or landscaping.

CHAPTER 3. REGULATED NATIVE PLANTS

66200. The botanical names of the plants referred to in this chapter shall in all cases govern in the interpretation of this division.

66201. The following native plants may not be harvested, except for scientific or educational purposes under a permit issued by the agricultural commissioner of the county in which the native plants are growing: all species of Burseraceae family (elephant tree), Carnegiea gigantea (sahuaro cactus), Castela emoryi (crucifixion thorn), Olneya tesota (desert ironwood), and Washingtonia filifera (fan palm).

66202. The following native plants may be harvested: all species of the family Agavaceae (century plants, nolinas, yuccas), all species of the family Cactaceae (cacti), all species of the family Fouquieriaceae (Ocotillo, Candlewood), all species of the genus Prosopis (mesquites), all species of the genus Cercidium (palo verdes), and the following species: Acacia greggii (catclaw), Atriplex hymenelytra (desert-holly), Dalea Spinosa (smoke tree), Dudleya saxosa, Pinus Longaeva (bristlecone pine), or any part thereof, except the fruit.

66203. The director may, after consultation with the Secretary of

the Resources Agency and after a public hearing, add to or remove from the jurisdiction of this division a native plant. A public hearing on native plants shall be held at least once every 24 months in a county subject to this division and in a location that is convenient to a large segment of the public.

66204. Any native plant that is declared to be a rare, endangered or threatened species by federal or state law or regulations, including, but not limited to, the Fish and Game Code, is exempt from the provisions of this division

CHAPTER 4. POWERS OF THE DEPARTMENT

66250. The county agricultural subject to this commissioner or the sheriff of a county subject to this division shall issue, in accordance with the provisions of this division, permits, wood receipts, tags, and seals for a fee as prescribed by the board of supervisors of the county where the native plants are located. Such fee shall not be less than one dollar ($1) per plant for all native plants, except Yucca brevifolia (Joshua tree), and not less than two dollars ($2) per plant for each Yucca brevifolia (Joshua tree), except that in the case of trees, live or dead, mesquite, palo verde or ironwood species of trees cut or removed for wood, as provided in Section 66252, such fee shall not be less than one dollar ($1) per cord. Such fees shall be based on the approximate cost of issuance. The permit shall specify, among other things, the species of native plants which may be harvested, the area from which plants may be harvested, and the manner in which plants may be harvested. No person, except as provided in this division, shall harvest, transport, offer for sale, or have in his possession any native plant in the State of California unless at the time of harvesting he has a valid permit therefor on his person, a valid wood receipt where required, attaches the tags and seals as may be required to the native plants at the time of harvesting, and exhibits the permit, wood receipt, and tags and seals upon request for inspection by any duly authorized agent of the county agricultural commissioner, or any peace officer as provided for in this division. No wood receipt or tag and seal is valid unless it is issued with a valid permit and such permit bears the tag number or wood receipt number on its face.

66251 With each permit authorizing the harvesting, transporting, or possessing of native plants, except trees cut or removed for wood as provided in Section 66252, the department shall provide such tags and seals as the department may prescribe.

The permittee or his agent shall attach tags and seals to the native plants at the time of harvesting and before transporting in such manner as prescribed by the department or by the agricultural commissioner of the county in which the native plants are located. After any native plant has been legally harvested and tagged as provided by this division, it shall be unlawful to remove such tag or seal until the plant has been transplanted into its ultimate site for

landscaping or beautification purposes. Removal of the tag or seal from the plant shall be only by an agent of the county agricultural commissioner, or the ultimate owner of the plant, who shall retain such tag or seal as proof of ownership. No permit or tag or seal as such is transferable by the permittee or his agent, nor shall it be used by anyone except that person to whom such permit or tag or seal was issued, and no refunds shall be made for the purchase thereof. Any permittee shall be responsible for the acts of any other person or persons acting under any authority expressed or implied of the permittee.

66252. With each permit authorizing the harvesting, transporting, or possessing of live or dead mesquite, palo verde, or ironwood species of trees which are cut or removed for wood, the department shall provide such wood receipts as the department may prescribe. Any required wood receipt must be in the possession of the person harvesting, transporting, or possessing the wood. No permit or wood receipt as such is transferable by the permittee or his agent, nor shall it be used by anyone other than the person to whom such permit or wood receipt was issued or his agent or employee, except that the wood receipt shall be transferred by the permittee or his agent or employee to the purchaser of the wood covered by the receipt as proof of ownership.

66253. A person in possession of a valid permit for the removal of dead plants or wood issued by the United States Forest Service, the National Park Service, or the Bureau of Land Management shall be exempt from the permit required pursuant to this division.

66254. The director may make necessary rules and regulations not in conflict with this division for the enforcement of its provisions.

66255. The director or any of his duly authorized agents or any peace officer is authorized and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the state, suspected of containing or having present therein or thereon native plants in violation of this division, or to examine permits and wood receipts and observe tags and seals.

66256. When any power or authority is given by any provision of this division to any person, it may be exercised by any deputy, inspector, or agent duly authorized by such person. Any person in whom the enforcement of any provision of this division is vested has the power of a peace officer as to such enforcement, which shall include state or federal agencies with which cooperative agreements have been made by the department to enforce any provisions of this division.

66257. Any county may adopt ordinances not in conflict with the provisions of this division for the preservation of native plants specified in Sections 66201 and 66202.

CHAPTER 5. TAKING OF NATIVE PLANTS

66300. Except as provided in this division, it shall be unlawful for any person to destroy, dig up, mutilate, or harvest any living native plant, or the living or dead parts of any native plants, except fruit, from state land or public land or private land without obtaining written permission from the landowner and a permit and any required wood receipts or tags and seals. It shall be unlawful for any person to falsify any paper or document issued to give permission for any person to harvest native plants or to fail to comply with all conditions or stipulations of the permit.

66301. The agricultural commissioner of the county wherein the plants are located may issue a permit to a scientific or educational institution to harvest a definite number of specified plants as listed in Section 66201 for scientific or educational purposes, provided permission is obtained from the landowner.

66302. Permits issued for the removal of native plants shall be valid only for a stated period of time to allow the permittee to remove the specific amount of plants or wood stated in the permit, or such period of time stated by the landowner as part of such landowner's permission, whichever is shorter, but in no case for more than one year.

It is the intent of the Legislature that each permit or wood receipt shall be valid for the least period of time possible in which to accomplish the authorized purpose.

66303. No person shall knowingly make any false statement on any application for such permit, wood receipt, and tags and seals, and the application shall contain, but is not limited to, the following information:

(a) The name, address, and telephone number of the applicant.

(b) The amount and species of native plants to be transported.

(c) The name of the county from which the native plants are to be removed.

(d) A legal description of the real property from which the native plants are to be removed.

(e) The name or names, addresses, and telephone numbers of the owners of the real property from which the native plants are to be removed.

(f) The applicant's timber operator permit number, if the harvesting of the native plants is subject to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code).

(g) The proposed date or dates of such transportation.

(h) The location of the office of the peace officer who will validate the tag or tags.

(i) The destination of such native plants.

(j) The ultimate use of the native plants, such as for use as landscaping or decorative material, or for use as a raw material in the manufacture or processing of a product.

(k) Make, model, and license number of the transportation vehicle

Every applicant shall, at the time of application, show his proof of ownership of the native plants. The application forms and tags and seals and wood receipts shall be produced and distributed by the State Department of Justice, to the sheriff and the agricultural commissioner of each county subject to Section 66002.

66304. Any permit issued pursuant to Section 66300, 66301, 66302 or 66303 shall expire when the tags and seals issued therewith have been attached to the plants covered by such permit and such plants are no longer in the possession of the permittee.

66305. The director or agricultural commissioner may establish specific cutting, harvesting, and plant care criteria which shall include the most favorable and practical horticultural methods and seasons to assure the survivability of the plants and to assure compliance with existing local, state, and federal regulations

66306. Nothing in this division shall be construed to prevent the clearing of land for agricultural purposes or for fire control measures, or required mining assessment work pursuant to federal and state mining laws, or the operation of a recreational event sanctioned by the Bureau of Land Management, or the cleaning or removal of native plants from a canal, lateral ditch, survey line, building site, or road or other right-of-way by the owner of the land or his agent where such native plants are not to be transported from the land or offered for sale and provided the agricultural commissioner is given at least 10 days' notice. The provisions of this division are not applicable to a public agency or to a publicly or privately owned public utility when acting in the performance of its obligation to provide service to the public. Nothing in this section shall preclude the landowner or his agent from complying with any other federal, state, or local laws or regulations.

The agricultural commissioner may exempt the use of dead and down wood for camping or branding fires from this division.

66307. Nothing in this division shall be construed to prohibit any person from harvesting or possessing five or less native plants or from cutting, removing, harvesting, transporting, or possessing any dead mesquite, palo verde, or ironwood in amounts less than one cord in quantity, from land owned by such person, or from land leased by such person, and the landowner's written permission to harvest has been obtained and is exhibited, or by such person who exhibits written permission to harvest from the landowner. Such written permission shall not be valid unless it includes the legal description of the land and the address and telephone number of the landowner.

Persons harvesting five or less native plants or cutting, removing, harvesting, transporting, or possessing any dead mesquite, palo verde, or ironwood in amounts less than one cord in quantity shall not be required to obtain and exhibit any permits, tags and seals, or wood receipts

Persons possessing six or more harvested native plants shall be

required to obtain and exhibit a validated tag and seal for the sixth native plant and for each additional native plant in his possession.

66308. Each county may enact ordinances not inconsistent with this division to control commercial harvesting in that county.

66309. The issuing agency shall collect fees for the issuance of permits, tags and seals and wood receipts under this division, except from a landowner moving native plants from one of his properties to another, provided that such plants are not to be offered for sale.

66310. Any harvested native plant found without a valid tag and seal securely and properly affixed thereto and for which the owner does not exhibit a tag and seal, or any mesquite, ironwood, or palo verde wood in the amount of one cord or more found in the possession of a person without a valid wood receipt, may be confiscated as evidence of a violation.

CHAPTER 6. SHIPMENT OF PLANTS

66350. No person or common carrier shall transport or receive or possess for transportation any native plant or any part thereof, or wood, except fruit, except for manufactured wood articles, that requires a permit, or wood receipt, or tag and seal, unless the person offering the plant for shipment furnishes to the person or common carrier a valid written permit for the transportation of the native plant or part thereof, and any required wood receipts, and has securely and properly attached thereto any required tag and seal. If for transport without the state, the plant shall also bear a certificate of inspection by the department.

66351. All native plant species or varieties subject to this division, when not grown in California and imported into this state, shall be declared at a California agricultural inspection station or an office of the department and proceed to destination under quarantine orders issued by agents of the department employed at such station or office. Any person transporting any plant species or varieties subject to this division from outside the State of California into California shall have in his possession a valid bill of sale for such native plants, and such permits and tags as may be required by such state, and shall produce such bill of sale as well as any permits and tags for inspection by any duly-authorized person as described in this division or any peace officers of the State of California as a requirement for entry into the state of such native plants.

CHAPTER 7. ENFORCEMENT

66400. A peace officer may, in the enforcement of this division, make arrests without warrant for a violation of this division which he may witness, and may confiscate native plants or parts thereof when unlawfully harvested, transported, possessed, sold, or otherwise in violation of this division.

66401. A person violating any provision of this division is guilty of

a misdemeanor punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense.

66402. Upon conviction of a violation of this division, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be isued to the permittee for a period of one year from the date of conviction.

66403 A second conviction may be considered as a misdemeanor or a felony. If a misdemeanor, it shall be punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense. If a felony, it shall be punishable by a fine of not less than one thousand dollars ($1,000), nor more than five thousand dollars ($5,000), for each violation or by imprisonment in the state prison not to exceed five years, or both, and each violation constitutes a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

66404 The issuing agency may revoke any permit and tags and seals issued for the purpose of harvesting for ultimate replanting if the permittee willfully fails to comply with all conditions or stipulations of the permit.

CHAPTER 8. FINANCIAL PROVISIONS

66450. All fees or moneys collected under the provisions of this division shall be paid into the general fund of the county in which the permits, tags and seals, and wood receipts were issued.

SEC. 3. Section 384a of the Penal Code is amended to read:

384a. Every person who within the State of California willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon state or county highway rights-of-way, or who removes leaf mold thereon; provided, however, that the provisions of this section shall not be construed to apply to any employee of the state or of any political subdivision thereof engaged in work upon any state, county or public road or highway while performing such work under the supervision of the state or of any political subdivision thereof, and every person who willfully or negligently cuts, destroys, mutilates or removes any tree or shrub, or fern or herb or bulb or cactus or flower,

or huckleberry or redwood greens, or portions of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon public land or upon land not his own, or leaf mold on the surface of public land, or upon land not his own, without a written permit from the owner of the land signed by such owner or his authorized agent, and every person who knowingly sells, offers, or exposes for sale, or transports for sale, any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or leaf mold, so cut or removed from state or county highway rights-of-way, or removed from public land or from land not owned by the person who cut or removed the same without the written permit from the owner of the land, signed by such owner or his authorized agent, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment in a county jail for not more than six months or by both such fine and imprisonment.

The written permit required under this section shall be signed by the landowner, or his authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. The permit shall contain the number and species of trees and amount of shrubs or ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens, or portions of any tree or shrub and shall contain the legal description of the real property as usually found in deeds and conveyances of the land on which cutting or removal, or both, shall take place. One copy of such permit shall be filed in the office of the sheriff of the county in which the land described in the permit is located. The permit shall be filed prior to commencement of cutting of the trees or shrub or fern or herb or bulb or cactus or flower or huckleberry or redwood green or portions of any tree or shrub authorized by the permit. The permit required by this section need not be notarized or filed with the office of the sheriff of the county where trees are to be removed when 5 (five) or less trees or 5 (five) or less pounds of shrubs or boughs are to be cut or removed.

Any county or state firewarden, or personnel of the California Division of Forestry as designated by the State Forester, and personnel of the United States Forest Service as designated by the Regional Forester, Region 5, of the United States Forest Service, or any peace officer of the State of California, shall have full power to enforce the provisions hereof and to confiscate any and all such shrubs, trees, ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens or leaf mold, or parts thereof unlawfully cut or removed or knowingly sold, offered or exposed or transported for sale as hereinbefore provided.

The provisions of this section shall not be construed to apply to any tree or shrub, or fern or herb or bulb or cactus or flower, or greens declared by law to be a public nuisance.

The provisions of this section shall not be deemed to apply to the necessary cutting or trimming of any such trees, shrubs, or ferns or herbs or bulbs or cacti or flowers, or greens if done for the purpose of protecting or maintaining an electric power line or telephone line or other property of a public utility.

The provisions of this section do not apply to persons engaged in logging operations, or in suppressing fires

The provisions of this section do not apply to any act regulated by the provisions of Division 23 (commencing with Section 66000) of the Food and Agricultural Code.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act authorizes a revenue source, or makes local governments eligible for a revenue source, that may be utilized by local governments to cover the cost of the mandate.

CHAPTER 1240

An act to add Chapter 10 (commencing with Section 1900) to Division 2 of the Fish and Game Code, to add Division 23 (commencing with Section 66000) to the Food and Agricultural Code, and to amend Section 384a of the Penal Code, relating to native plants.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 10 (commencing with Section 1900) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 10. CALIFORNIA NATIVE DESERT PLANTS

1900. The department shall enforce the provisions of the California Desert Native Plants Act (commencing with Section 66000 of the Food and Agricultural Code), except that permits and tags shall be issued pursuant to Chapter 6 (commencing with Section 66250) of Division 23 of the Food and Agricultural Code by the Department of Food and Agriculture, the county agricultural commissioner, or the sheriff. Nothing in the California Desert Native Plants Act (commencing with Section 66000 of the Food and Agricultural Code), or any other law, shall prohibit the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants, and the provisions of the California Desert Native Plants Act (commencing with Section 66000 of the Food and

Agricultural Code) shall not apply to such activities.

1901. In carrying out the provisions of this chapter the department shall cooperate fully with the Department of Food and Agriculture.

SEC. 2. Division 23 (commencing with Section 66000) is added to the Food and Agricultural Code, to read.

DIVISION 23. CALIFORNIA DESERT NATIVE PLANTS

CHAPTER 1. GENERAL PROVISIONS

66000 This division shall be known and may be cited as the California Desert Native Plants Act.

66001. It is the intent of the Legislature in enacting the provisions of this division to protect California desert native plants from unlawful harvesting on both public and privately owned lands. It is also the intent of the Legislature to provide the people of this state with the information necessary to legally harvest native plants so as to ultimately transplant such plants with the greatest possible chance of survival It is the further intent of the Legislature to encourage public participation in implementing the safeguards established by this division and in evaluating the effectiveness and desirability of such safeguards.

66002. The provisions of this division shall on the effective date of this division be applicable only within the exterior boundaries of the Counties of Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, San Bernardino, and San Diego. The director may thereafter revise the boundaries of the areas of the state which shall be subject to the provisions of this division after an annual public hearing required to be held pursuant to Section 66203 and upon receipt of a resolution approving such change of boundaries by the board of supervisors of the affected county.

CHAPTER 2. DEFINITIONS

66100 Unless the context otherwise requires, the definitions of this chapter govern the construction of this division.

66101. "Landowner" includes the public agency administering any public lands within the areas subject to this division.

66102. "Harvest" means to remove or cut and remove from the place where grown.

66103. "Harvester" means a person who harvests a native plant.

66104. "Director" means the Director of the Department of Food and Agriculture.

66105. "Department" means the Department of Food and Agriculture.

66106. "Tag" means a paper or cloth label that can be attached to a native plant or a commercial load by means of a string and a seal,

which tag specifies among other things a serial number, type of plant, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing or landscaping.

66107. "Seal" means a metal, tamperproof clamp used to permanently affix the tag to a native plant.

66108 "Resale" means native plants harvested, taken, possessed, or transported with the intent to sell such plants for ultimate landscaping or decoration purposes, or both

66109. "Resale load" means native plants harvested, taken, possessed or transported for resale purposes

66110 "Native plant" means any tree, shrub, or plant or part thereof, except its fruit, which is growing wild on state land or other public land or on privately-owned land without being propagated or cultivated by human beings.

66111. "Commercial harvesting" means harvesting native plants for an ultimate use other than as landscaping or decorative material and with the plants' tops, or branches, or both, boughs or limbs removed.

CHAPTER 3. REGULATED NATIVE PLANTS

66200. The botanical names of the plants referred to in this chapter shall in all cases govern in the interpretation of this division.

66201 The following native plants may not be collected except for scientific or educational purposes under a permit issued by the director: all species of Burseraceae family (elephant tree), Carnegiea gigantea (sahuaro cactus), Castela emoryi (crucifixion thorn), Olneya tesota (desert ironwood), and Washingtonia filifera (fan palm).

66202. The following native plants constitute the group of regulated native plants: all species of the family Agavaceae (century plants, nolinas, yuccas), all species of the family Cactaceae (cacti), all species of the family Fouquieriaceae (ocotillo, candlewood), all species of the genus Prosopis (mesquites), all species of the genus Cercidium (palo verdes), and the following species: Acacia greggii (catclaw), Atriplex hymenelytra (desert-holly), Dalea Spinosa (smoke tree), Dudleya saxosa, Pinus Longaeva (bristlecone pine), or any part thereof, except the fruit.

66203. The director may, after consultation with the Secretary of the Resources Agency and after a public hearing, add to or remove from the jurisdiction of this division a native plant. A public hearing on native plants shall be held at least once every 24 months in a county subject to this division that is convenient to a large segment of the public.

66204. Any native plant that is declared to be a rare, endangered or threatened species by federal or state law or regulations, including, but not limited to, the Fish and Game Code, is exempt from the provisions of this division.

CHAPTER 4. POWERS OF THE DEPARTMENT

66250. The department, county agricultural commissioner, or the sheriff of the county subject to this division shall issue, in accordance with the provisions of this division, permits, wood receipts, tags, and seals for a fee as prescribed by the board of supervisors of the county where the native plants are located. Such fee shall not be less than one dollar ($1) per plant for all native plants, except Yucca brevifolia (Joshua tree), and not less than two dollars ($2) per plant for each Yucca brevifolia (Joshua tree), except that in the case of trees, live or dead, mesquite, palo verde or ironwood species of trees cut or removed for wood, as provided in Section 66252, such fee shall not be less than one dollar ($1) per cord, to persons who take regulated native plants from their original growing sites. Such fees shall be based on the approximate cost of issuance. The permit shall specify the species of regulated native plants which may be taken, the area from which plants may be taken, and the manner in which plants may be taken. No person, except as provided in this division, shall harvest, take, transport, offer for sale, or have in his possession any regulated native plant in the State of California unless at the time of taking he has a valid permit therefor on his person, a valid wood receipt where required, attaches the tags and seals as may be required to the native plants at the time of taking, and exhibits the permit, wood receipt, and tags and seals upon request for inspection by any duly authorized agent of the director or by any peace officer as provided for in this division No wood receipt or tag and seal is valid unless it is issued with a valid permit and such permit bears the tag number or wood receipt on its face.

66251. With each permit authorizing the taking, transporting, or possessing of regulated native plants, except trees cut or removed for wood as provided in Section 66252, the department shall provide such tags and seals as the department may prescribe, which the permittee or his agent shall attach to the regulated native plants at the time of taking and before transporting and in such manner as prescribed by the department. After any regulated native plant has been legally taken and tagged as provided by this division, it shall be unlawful to remove such tag or seal until the plant has been transplanted into its ultimate site for landscaping or beautification purposes. Removal of the tag or seal from the plant shall be only by an agent of the department or by the ultimate owner of the plant, who shall retain such tag or seal as proof of ownership. No permit or tag or seal as such is transferable by the permittee or his agent, nor shall it be used by anyone except that person to whom such permit or tag or seal was issued, and no refunds shall be made for the purchase thereof. Any permittee shall be responsible for the acts of any other person or persons acting under any authority expressed or implied of the permittee.

66252. With each permit authorizing the taking, transporting, or possessing of live or dead mesquite, palo verde, or ironwood species

of trees which are cut or removed for wood, the department shall provide such wood receipts as the department may prescribe, which must be in the possession of the person taking, transporting, or possessing the wood No permit or wood receipt as such is transferable by the permittee or his agent, nor shall it be used by anyone other than the person to whom such permit or wood receipt was issued or his agent or employee, except that the wood receipt shall be transferred by the permittee or his agent or employee to the purchaser of the cord of wood covered by the receipt as proof of ownership.

66253. A person in possession of a valid permit for the removal of dead plants or wood issued by the United States Forest Service, the National Park Service, or the Bureau of Land Management shall be exempt from the permit required pursuant to this division.

66254. The director may make necessary rules and regulations not in conflict with this division for the enforcement of its provisions

66255. The director or any of his duly authorized agents or any peace officer is authorized and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the state, suspected of containing or having present therein or thereon regulated native plants in violation of this division.

66256 When any power or authority is given by any provision of this division to any person, it may be exercised by any deputy, inspector, or agent duly authorized by such person. Any person in whom the enforcement of any provision of this division is vested has the power of a peace officer as to such enforcement, which shall include state or federal agencies with which cooperative agreements have been made by the department to enforce any provisions of this division

66257. Any county may adopt ordinances not in conflict with the provisions of this division for the preservation of native plants specified in Sections 66201 and 66202

CHAPTER 5 TAKING OF NATIVE PLANTS

66300. Except as provided in this division, it shall be unlawful for any person to destroy, dig up, mutilate, or take any living plant, or the living or dead parts of any trees, except fruit, of the regulated native plants from state land or public land or private land without obtaining written permission from the landowner and a permit and any required wood receipts or tags and seals, any paper or document issued to give permission for any person to take native plants of the regulated group, or to fail to comply with all conditions or stipulations of the permit.

66301. The director or agricultural commissioner of the county wherein the plants are located may authorize a scientific or educational institution to take a definite number of specified plants as listed in Section 66201 in the regulated group for scientific or

educational purposes, provided permission is obtained from the landowner.

66302. Permits issued for the removal of regulated native plants shall be valid only for a stated period of time to allow the permittee to remove the specific amount of plants or wood stated in the permit, or such period of time stated by the landowner as part of such landowner's permission, whichever is shorter, but in no case for more than one year.

It is the intent of the Legislature that each permit or wood receipt shall be valid for the least period of time possible in which to accomplish the authorized purpose.

66303. No person shall knowingly make any false statement on any application for such transportation tags, and the application shall contain, but is not limited to, the following information:

(a) The name, address, and telephone number of the applicant.

(b) The amount and species of trees, shrubs or boughs to be transported.

(c) The name of the county from which the trees, shrubs, or boughs are to be removed.

(d) A legal description of the real property from which the trees, shrubs, or boughs are to be removed.

(e) The name or names, addresses, and telephone numbers of the owner of the real property from which the native plants are to be removed.

(f) The applicant's timber operator permit number, if the harvesting of the native plants is subject to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code).

(g) The proposed date or dates of such transportation.

(h) The location of the office of the peace officer who will validate the transportation tag or tags.

(i) The destination of such native plants.

(j) The ultimate use of the native plants, such as for use as landscaping or decorative material, or for use as a raw material in the manufacture or processing of a product.

(k) Make, model, and license number of the transportation vehicle.

Every applicant shall, at the time of application, show his proof of ownership of the native plants. The application forms and transportation tags and seals and wood receipts shall be produced and distributed by the State Department of Justice, to the sheriff and the agricultural commissioner of each county subject to Section 66002, the director, and the Director of Fish and Game.

66304. Any permit issued pursuant to Section 66300, 66301, 66302 or 66303 shall expire when the tags and seals issued therewith have been attached to the plants covered by such permit and such plants are no longer in the possession of the permittee.

66305. The director or agricultural commissioner may establish specific cutting, harvesting, and plant care criteria which shall

include the most favorable and practical horticultural methods and seasons to assure the survivability of the plants and to assure compliance with existing local, state, and federal regulations.

66306. Nothing in this division shall be construed to prevent the clearing of land for agricultural purposes or for fire control measures, or required mining assessment work pursuant to federal and state mining laws, or the operation of a recreational event sanctioned by the Bureau of Land Management, or the cleaning or removal of regulated native plants from a canal, lateral ditch, survey line, building site, or road or other right-of-way by the owner of the land or his agent where such regulated native plants are not to be transported from the land or offered for sale and provided the department is given at least 10 days' notice. The provisions of this chapter are not applicable to a public agency or to a publicly or privately owned public utility when acting in the performance of its obligation to provide service to the public. Nothing in this section shall preclude the landowner or his agent from complying with any other federal, state, or local laws or regulations.

The director or agricultural commissioner may exempt the use of dead and down wood for camping or branding fires from this division.

66307. Nothing in this division shall be construed to prohibit any person from harvesting or possessing five or less regulated native plants or from cutting, removing, harvesting, transporting, or possessing any dead mesquite, palo verde, or ironwood in amounts less than one cord in quantity, from land owned by such person, or from land leased by such person, and the landowner's written permission to harvest has been obtained and is exhibited, or by such person who exhibits written permission to harvest from the landowner Such written permission shall not be valid unless it includes the legal description of the land the address and telephone number of the landowner.

Persons harvesting five or less native plants or cutting, removing, harvesting, transporting, or possessing any dead mesquite, palo verde, or ironwood in amounts less than one cord in quantity shall not be required to obtain and exhibit any permits, tags and seals, or wood receipts.

Persons possessing six or more harvested native plants shall be required to obtain and exhibit a validated tag and seal for the sixth native plant and for each additional native plant in his possession.

66308. Each county may enact ordinances not inconsistent with this division to control commercial harvesting in that county.

66309. The issuing agency shall collect fees for the issuance of permits, tags and seals and wood receipts under this division, except from a landowner moving native plants from one of his properties to another, provided that such plants are not to be offered for sale.

66310. Any regulated native plant found without a valid tag and seal securely and properly affixed thereto, or any mesquite, ironwood, or palo verde wood in the amount of one cord or more

found in the possession of a person without a valid wood receipt, may be confiscated as evidence of a violation.

CHAPTER 6. SHIPMENT OF PLANTS

66350. No person or common carrier shall transport or receive or possess for transportation any regulated native plant or any part thereof, or wood, except fruit, except for manufactured wood articles, unless the person offering the plant for shipment exhibits to the person or common carrier a valid written permit for the transportation of the plant or part thereof, and has securely and properly attached thereto a valid native plant tag and seal. If for transport without the state, the plant shall also bear a certificate of inspection by the department.

66351. All native plant species or varieties subject to this division, when not grown in California and imported into this state, shall be declared at a California agricultural inspection station or an office of the department, and proceed to destination under quarantine orders issued by agents of the department employed at such station or office. Any person transporting any plant species or varieties subject to this division from an adjacent state into California shall have in his possession a valid bill of sale for such native plants, and such permits and tags as may be required by the adjacent state, and shall produce such bill of sale as well as any permits and tags for inspection by any duly-authorized person as described in this division or any peace officers of the State of California as a requirement for entry into the state of such native plants.

CHAPTER 7. ENFORCEMENT

66400. A peace officer may, in the enforcement of this division, make arrests without warrant for a violation of this division which he may witness, and may confiscate native plants or parts thereof belonging to the regulated group when unlawfully taken, harvested transported, possessed, sold, or otherwise in violation of this division.

66401. A person violating any provision of this division is guilty of a misdemeanor punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense.

66402. Upon conviction of a violation of this division, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee for a period of one year from the date of conviction.

66403. A second conviction may be considered as a misdemeanor or a felony. If a misdemeanor, it shall be punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand

dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense. If a felony, it shall be punishable by a fine of not less than one thousand dollars ($1,000), nor more than five thousand dollars ($5,000), for each violation or by imprisonment in the state prison not to exceed five years, or both, and each violation constitutes a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

66404. The department, agricultural commissioner, or sheriff may revoke any permit issued for the purpose of harvesting for ultimate replanting if the permittee willfully fails to comply with all conditions or stipulations of the permit.

CHAPTER 8. FINANCIAL PROVISIONS

66450. All fees or moneys collected under the provisions of this division shall be paid into the General Fund of the county in which the permits, tags and seals, and wood receipts were issued.

SEC 3. Section 384a of the Penal Code is amended to read:

384a. Every person who within the State of California willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon state or county highway rights-of-way, or who removes leaf mold thereon; provided, however, that the provisions of this section shall not be construed to apply to any employee of the state or of any political subdivision thereof engaged in work upon any state, county or public road or highway while performing such work under the supervision of the state or of any political subdivision thereof, and every person who willfully or negligently cuts, destroys, mutilates or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portions of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon public land or upon land not his own, or leaf mold on the surface of public land, or upon land not his own, without a written permit from the owner of the land signed by such owner or his authorized agent, and every person who knowingly sells, offers, or exposes for sale, or transports for sale, any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or leaf mold, so cut or removed from state or county highway rights-of-way, or removed from public land or from land not owned by the person who cut or removed the same without the written permit from the

owner of the land, signed by such owner or his authorized agent, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment in a county jail for not more than six months or by both such fine and imprisonment.

The written permit required under this section shall be signed by the landowner, or his authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. The permit shall contain the number and species of trees and amount of shrubs or ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens, or portions of any tree or shrub and shall contain the legal description of the real property as usually found in deeds and conveyances of the land on which cutting or removal, or both, shall take place One copy of such permit shall be filed in the office of the sheriff of the county in which the land described in the permit is located. The permit shall be filed prior to commencement of cutting of the trees or shrub or fern or herb or bulb or cactus or flower or huckleberry or redwood green or portions of any tree or shrub authorized by the permit The permit required by this section need not be notarized or filed with the office of the sheriff of the county where trees are to be removed when 5 (five) or less trees or 5 (five) or less pounds of shrubs or boughs are to be cut or removed.

Any county or state firewarden, or personnel of the California Division of Forestry as designated by the State Forester, and personnel of the United States Forest Service as designated by the Regional Forester, Region 5, of the United States Forest Service, or any peace officer of the State of California, shall have full power to enforce the provisions hereof and to confiscate any and all such shrubs, trees, ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens or leaf mold, or parts thereof unlawfully cut or removed or knowingly sold, offered or exposed or transported for sale as hereinbefore provided.

The provisions of this section shall not be construed to apply to any tree or shrub, or fern or herb or bulb or cactus or flower, or greens declared by law to be a public nuisance.

The provisions of this section shall not be deemed to apply to the necessary cutting or trimming of any such trees, shrubs, or ferns or herbs or bulbs or cacti or flowers, or greens if done for the purpose of protecting or maintaining an electric powerline or telephone line or other property of a public utility.

The provisions of this section do not apply to persons engaged in logging operations, or in suppressing fires.

The provisions of this section do not apply to any act regulated by the provisions of Division 23 (commencing with Section 66000) of the Food and Agricultural Code.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because

the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1241

An act to amend Sections 207, 604, 630, 635. 636.2, 654, 655, 776, 777, and 840 of, and to repeal Sections 507 and 653 5 of, the Welfare and Institutions Code, relating to juvenile court law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 207 of the Welfare and Institutions Code is amended to read:

207. (a) No court, judge, referee, or peace officer shall knowingly detain in any jail or lockup any person under the age of 18 years, unless a judge of the juvenile court shall determine that there are no other proper and adequate facilities for the care and detention of such person, or unless such person has been transferred by the juvenile court to another court for proceedings not under the Juvenile Court Law and has been charged with or convicted of a felony. If any person under the age of 18 years is transferred by the juvenile court to another court and is charged with or convicted of a felony as herein provided and is not released pending hearing, such person may be committed to the care and custody of a sheriff, constable, or other peace officer who shall keep such person in the juvenile hall or in such other suitable place as such latter court may direct, provided that no such person shall be detained in or committed to any hospital except for medical or other remedial care and treatment or observation.

(b) Notwithstanding the provisions of subdivision (a) or any other provision of law, no minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground. If any such minor is detained, he shall be detained in a sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

SEC. 1.5 Section 507 of the Welfare and Institutions Code is repealed.

SEC 1.7. Section 604 of the Welfare and Institutions Code is

amended to read:

604. (a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom such person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, such judge shall immediately suspend all proceedings against such person on such charge; he shall examine into the age of such person, and if, from such examination, it appears to his satisfaction that such person was at the date the offense is alleged to have been committed under the age of 18 years, he shall forthwith certify to the juvenile court of his county:

(1) That such person (naming him) is charged with such crime (briefly stating its nature);

(2) That such person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving date of birth when known;

(3) That proceedings have been suspended against such person on such charge by reason of his age, with the date of such suspension.

To such certification, the judge shall attach a copy of the accusatory pleading.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the Juvenile Court Law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon receipt thereof, the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the filing of a petition pursuant to Section 656, except that such petition need not be verified.

SEC 2. Section 630 of the Welfare and Institutions Code is amended to read.

630. (a) If the probation officer determines that the minor shall be retained in custody, he shall immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the filing of a petition pursuant to Section 656 with the clerk of the juvenile court who shall set the matter for hearing on the detention calendar. Immediately upon filing the petition with the clerk of the juvenile court, if the minor is alleged to be a person described in Section 601 or 602, the probation officer or the prosecuting attorney, as the case may be, shall serve such minor with a copy of the petition and notify him of the time and place of the detention hearing. The probation officer, or the prosecuting attorney, as the case may be, shall

thereupon notify each parent or each guardian of the minor of the time and place of such hearing if the whereabouts of each parent or guardian can be ascertained by due diligence. Such notice may be given orally.

(b) In such hearing the minor has a privilege against self-incrimination and has a right to confrontation by, and cross-examination of, any person examined by the court as provided in Section 635.

SEC. 3. Section 635 of the Welfare and Institutions Code is amended to read:

635. The court will examine such minor, his parent, guardian, or other person having relevant knowledge, hear such relevant evidence as the minor, his parent or guardian or their counsel desires to present, and, unless it appears that such minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or reasonably necessary for the protection of the person or property of another that he be detained or that such minor is likely to flee to avoid the jurisdiction of the court, the court shall make its order releasing such minor from custody.

The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that the minor be detained.

SEC 3.5. Section 636.2 of the Welfare and Institutions Code is amended to read:

636.2. The probation officer may operate and maintain nonsecure detention facilities, or may contract with public or private agencies offering such services, for those minors who are not considered escape risks and are not considered a danger to themselves or to the person or property of another. Criteria to be considered for detention in such facilities shall include, but not be limited to: (a) the nature of the offense, (b) the minor's previous record including escapes from secure detention facilities, (c) lack of criminal sophistication, and (d) the age of the minor. A minor detained in such facilities who leaves the same without permission may be housed in a secure facility following his apprehension, pending a detention hearing pursuant to Section 632.

SEC. 4. Section 653.5 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 654 of the Welfare and Institutions Code is amended to read:

654. In any case in which a probation officer, after investigation of an application for petition or other investigation he is authorized to make concludes that a minor is within the jurisdiction of the juvenile court or will probably soon be within such jurisdiction, he may, in lieu of filing a petition to declare a minor a dependent child

of the court or a minor or a ward of the court under Section 601 or requesting that a petition be filed by the prosecuting attorney to declare a minor a ward of the court under Section 602 or subsequent to dismissal of a petition already filed, and with consent of the minor and the minor's parent or guardian, delineate specific programs of supervision for the minor, for not to exceed six months, and attempt thereby to adjust the situation which brings the minor within the jurisdiction of the court or creates the probability that he will soon be within such jurisdiction. Nothing in this section shall be construed to prevent the probation officer from filing a petition or requesting the prosecuting attorney to file a petition at any time within said six-month period If the probation officer determines that the minor has not involved himself in the specific programs within 60 days, the probation officer shall immediately file a petition or request that a petition be filed by the prosecuting attorney. However, when in the judgment of the probation officer the interest of the minor and the community can be protected, the probation officer shall make a diligent effort to proceed under this section.

The program of supervision of the minor undertaken pursuant to this section may call for the minor to obtain care and treatment for the misuse of restricted dangerous drugs or addiction to narcotics from a county mental health service or other appropriate community agency

Further, this section shall authorize the probation officer with consent of the minor and the minor's parent or guardian to provide the following services in lieu of filing a petition:

(a) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide such services. Such placement shall be limited to a maximum of 90 days. Counseling services shall be extended to the sheltered minor and his family during this period of diversion services. The minor and his parents may be required to make full or partial reimbursement for the services rendered the minor and his family during the diversion process. Referrals for sheltered-care diversion may be made by the minor, his family, schools, law enforcement or any other private or public social service agency

(b) Maintain and operate crisis resolution homes, or contract with private or public agencies offering such services. Residence at such facilities shall be limited to 20 days during which period individual and family counseling shall be extended the minor and his family. Failure to resolve the crisis within the 20-day period may result in the minor's referral to a shelter-care facility for a period not to exceed 90 days. Referrals shall be accepted from the minor, his family, schools, law enforcement or any other private or public social service agency. The minor, his parents, or both, may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors.

(c) Maintain and operate counseling and educational centers, or contract with private and public agencies, societies or corporations

whose purpose is to provide vocational training or skills. Such centers may be operated separately or in conjunction with crisis resolution homes to be operated by the probation officer. The probation officer shall be authorized to make referrals to the appropriate existing private or public agencies offering similar services when available.

At the conclusion of the program of supervision undertaken pursuant to this section, the probation officer shall prepare and maintain a followup report of the actual program measures taken.

SEC 6 Section 655 of the Welfare and Institutions Code is amended to read:

655. (a) When any person has applied to the probation officer, pursuant to Section 653, to request commencement of juvenile court proceedings to declare a minor a ward of the court under Section 602 and the probation officer does not cause the affidavit to be taken to the prosecuting attorney pursuant to Section 653 within 21 court days after such application, such person may, within 30 court days after making such application, apply to the prosecuting attorney to review the decision of the probation officer, and the prosecuting attorney may either affirm the decision of the probation officer or commence juvenile court proceedings.

(b) When any person has applied to the probation officer, pursuant to Section 653, to commence juvenile court proceedings to declare a minor a dependent child of the court or a ward of the court under Section 601 and the probation officer fails to file a petition within 21 court days after such application, such person may, within 30 court days after making such application, apply to the juvenile court to review the decision of the probation officer, and the court may either affirm the decision of the probation officer or order him to commence juvenile court proceedings.

SEC. 8. Section 776 of the Welfare and Institutions Code is amended to read:

776. No order changing, modifying, or setting aside a previous order of the juvenile court shall be made either in chambers, or otherwise, unless prior notice of the application therefor has been given by the judge or the clerk of the court to the probation officer and prosecuting attorney and to the minor's counsel of record, or, if there is no counsel of record, to the minor and his parent or guardian.

SEC. 9. Section 777 of the Welfare and Institutions Code is amended to read:

777. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer, where a minor has been declared a ward of the court under Section 601, and by the prosecuting attorney at the request of the

probation officer where a minor has been declared a ward under Section 602, in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Upon the filing of such supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice thereof to be served upon the persons and in the manner prescribed by Sections 658 and 660.

(c) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

SEC. 9.5. Section 840 of the Welfare and Institutions Code is amended to read:

840. There shall be in each county probation department a program of home supervision to which minors described by Section 628.1 shall be referred. Home supervision is a program in which persons who would otherwise be detained in the juvenile hall are permitted to remain in their homes pending court disposition of their cases, under the supervision of a deputy probation officer, probation aide, or probation volunteer.

SEC. 10. The Legislature recognizes that there are state-mandated local costs incurred by counties as a result of the enactment of Chapter 1071 of the Statutes of 1976, including, but not limited to, costs required to provide alternative programs for minors alleged or found to be wards of the juvenile court pursuant to Section 601 of the Welfare and Institutions Code, but for Chapter 1071 of the Statues of 1976, would have been placed in secure detention, and that such costs may exceed the savings provided to counties by Chapter 1071 of the Statutes of 1976. The Legislature further recognizes that Section 2231 of the Revenue and Taxation Code requires state reimbursement of counties for such costs.

SEC. 11. Notwithstanding Section 2253 of the Revenue and Taxation Code, counties shall submit to the State Board of Control claims for reimbursement for costs imposed by Chapter 1071 of the Statutes of 1976, which costs arise between January 1, 1977, and June 30, 1978, to the extent that costs exceed savings provided for by that act during that period. Any county utilizing programs and facilities of a type now required by Chapter 1071 of the Statutes of 1976 shall be reimbursed only the costs arising with respect to those programs and facilities on and after January 1, 1977, that are directly imposed on the county by Chapter 1071 of the Statutes of 1976. The State Board of Control shall consider the claims based on recommendations or evidence, or both, presented by the Department of the Youth Authority and the Department of Finance, Local Mandate Programs Unit, or other state departments as appropriate.

SEC. 12. As used in Sections 10 and 11 of this act, "county" also includes a city and county.

SEC. 13. The sum of eighteen million dollars ($18,000,000) is hereby appropriated from the General Fund to the State Controller for disbursement to any county for reimbursement for costs incurred pursuant to Chapter 1071 of the Statutes of 1976, upon approval of claims for such reimbursement pursuant to Section 12 of this act and in accordance with the following schedule:

(1) Six million dollars ($6,000,000) for the 1976–77 fiscal year.

(2) Twelve million dollars ($12,000,000) for 1977–78 fiscal year; provided, that if claims received in 1976–77 fiscal year are over six million dollars ($6,000,000) the Department of Finance may allocate funds in this paragraph to paragraph (1). If the total county claims for reimbursement for costs incurred pursuant to Chapter 1071 of the Statutes of 1976 exceed the amount of funds appropriated herein, the Department of Finance shall request additional funds from the Legislature to meet the full amount of such claims.

SEC. 14. Any claim incurred by a county during the period of January 1, 1977, to June 30, 1977, pursuant to Chapter 1071 of the Statutes of 1976, which is filed by a county with the State Controller after the normal filing period shall be accepted and the county shall be reimbursed by funds made available pursuant to this act.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the conforming changes in the law necessitated by Chapter 1071 of the Statutes of 1976 be effectuated at the earliest possible date, it is necessary that this bill take effect immediately.

CHAPTER 1242

An act to amend Sections 2924b and 2931c of the Civil Code, to amend Section 27282 of, to add Chapter 4.5 (commencing with Section 14735) to Part 5.5 of Division 3 of Title 2 of, Chapter 6 (commencing with Section 16180) to Part 1 of Division 4 of Title 2 of, the Government Code, and to amend Sections 2505 and 17037 of, to add Sections 2514, 2515, and 3375 to, to add Chapter 7 (commencing with Section 3201) to Part 5 of Division 1 of, to add Part 10.5 (commencing with Section 20501) to Division 2 of, and to repeal Part 10.5 (commencing with Section 19501) of Division 2 of, the Revenue and Taxation Code, and to add Section 11008.4 to the Welfare and Institutions Code, relating to the postponement of property taxes by senior citizens, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. It is the purpose of this act to implement Proposition No. 13 (Res Ch. 2, Stats 1976) on the ballot for the primary election held on Tuesday, June 8, 1976, which added Section 8 5 to Article XIII of the Constitution of the State of California to authorize the Legislature to provide for the postponement of property taxes by persons with low or moderate incomes who are 62 years of age or older.

SEC 2 Section 2924b of the Civil Code is amended to read

2924b (1) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until such notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of such deed of trust or mortgage and prior to recordation of notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any such notice of default and of sale This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof and the book and page where the same is recorded or the recorder's number and shall be in substantially the following form·

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, 19__, in Book _____ page _____ records of _____ County, (or filed for record with recorder's serial number _____, _____ County) California, executed by _____ as trustor (or mortgagor) in which _____, is named as beneficiary (or mortgagee) and _____ as trustee be mailed to _____ at _____.

Name Address

Signature_____"

Upon the filing for record of such request, the recorder shall index in the general index of grantors the names of the trustors (or mortgagor) recited therein and the names of persons requesting copies.

(2) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following

(a) Within 10 days following recordation of such notice of default, deposit or cause to be deposited in the United States mail an

envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request

(b) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in such request.

(3) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(a) Within one month following recordation of such notice of default, deposit or cause to be deposited in the United States mail an envelope, registered or certified with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (b) of subdivision (3), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of such estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided such instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided such instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of such instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

(b) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to such deed of trust or mortgage being foreclosed.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B) above, as of the recording date of the notice of default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with such deed of trust or

mortgage being foreclosed but subject to a recorded agreement or statement of subordination to such deed of trust or mortgage being foreclosed.

(E) The successor in interest to such vendee or lessee described in subparagraph (D) above, as of the recording date of the notice of default.

(F) The Controller where, as of the recording date of the notice of default, a lien for postponed property taxes has been recorded against the real property to which the notice of default applies.

(c) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, registered or certified with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in subdivisions (a) and (b).

(d) The mailing of notices in the manner set forth in subdivision (a) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate such notice to such entitled person from the fact that the mailing address used by the county recorder is the address of such attorney, agent, or employee.

(4) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person a party thereto at the address of such person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each such person at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such request but no address of such person is given therein and if no request for special notice by such trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, such publication to commence within 10 days after the filing of the notice of default. In lieu of such publication a copy of the notice of default may be delivered personally to the trustor or mortgagor within such 10 days or at any time before publication is completed.

(5) No request for copy of any notice filed for record pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon the property described in the deed of trust or mortgage referred to

therein.

SEC. 3 Section 2931c of the Civil Code is amended to read:

2931c. The Attorney General may bring an action in the courts of this or any other state or of the United States to enforce any lien to secure the payment of taxes or other obligations to the State of California under the Unemployment Insurance Code, the Revenue and Taxation Code, or Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code or to subject to payment of the liability giving rise to the lien any property in which the debtor has any right, title, or interest. In any action brought under this section the court shall have jurisdiction to determine the priority and effect of the lien in or upon the property, but the jurisdiction of the court in such action shall not extend to a determination of the validity of the liability giving rise to the lien.

SEC. 4. Chapter 4.5 (commencing with Section 14735) is added to Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4 5 SALE OF RESIDENTIAL DWELLINGS

14735. Upon being directed by the Controller to sell a residential dwelling pursuant to Section 16201, the department shall sell such residential dwelling in the manner prescribed and in accordance with the procedure established in Chapter 7 (commencing with Section 3201) of Part 5 of Division 1 of the Revenue and Taxation Code.

SEC. 5. Chapter 6 (commencing with Section 16180) is added to Part 1 of Division 4 of Title 2 of the Government Code, to read:

CHAPTER 6. PAYMENT OF POSTPONED PROPERTY TAXES

Article 1 Payments and Liens

16180. Out of the amount appropriated to the Controller by Section 16100, the sum of five million dollars ($5,000,000) is hereby made available to the Controller to pay the face amount of all certificates of eligibility for the postponement of property taxes submitted to the Controller which are signed and countersigned in the manner specified in Sections 20602 and 20603 of the Revenue and Taxation Code.

16181. The Controller shall maintain a record of all properties against which a notice of lien for postponed property taxes has been recorded. Such record shall include, but not be limited to, the names of each claimant, a description of the real property against which the lien is recorded, the identification number of the notice of lien assigned by the Controller, and the amount of the lien

Upon request of any person or entity, or the agent of either, having a legal or equitable interest in real property which is subject to a lien for postponed taxes, the Controller shall issue a written statement showing the amount of the obligation secured by the lien as of the

date of such statement and such other information as will reasonably enable such person or entity, or the agent of either, to determine the amount to be paid the Controller in order to obtain a certificate of release or discharge of the lien for postponed taxes.

The Controller shall adopt regulations necessary to implement the provisions of this chapter and shall establish a reasonable fee, not to exceed ten dollars ($10), for the provision of the statement of lien status provided for herein.

16182. All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California upon the real property for which property taxes have been postponed.

The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

The notice of lien may bear the facsimile signature of the Controller. Each such signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(a) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes

(b) A description of the real property for which real property taxes have been paid.

(c) The identification number of the notice of lien which has been assigned the lien by the Controller.

The notice of lien shall be recorded in the office of the county recorder for the county in which the real property subject to the lien is located.

The recorded notice of lien shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the Controller of the State of California.

After the notice of lien has been duly recorded and indexed, it shall be returned by the county recorder to the office of the Controller. The recorder shall provide the county tax collector with a copy of the notice of lien which has been recorded by the Controller.

From the time of recordation of a notice of lien for postponed property taxes, a lien shall attach to the real property described therein and shall have the force, effect, and priority of a judgment lien for all amounts secured thereby, except that the lien shall remain in effect until (1) released by the Controller in the manner

prescribed by Section 16186, or (2) the foreclosure or sale of an obligation secured by a lien which is senior in priority to the lien of the State of California

16183. (a) From the time a payment is made pursuant to Section 16180, the amount of such payment shall bear interest at an annual rate of 7 percent.

(b) The interest provided for in subdivision (a) of this section shall be applied beginning the first day of the month following the month in which such payment is made and continuing on the first day of each month thereafter until such amount is paid. In the event that any payments are applied, in any month, to reduce the amount paid pursuant to Section 16180, the interest provided for herein shall be applied to the balance of such amount beginning on the first day of the following month.

In computing interest in accordance with this section, fractions of a cent shall be disregarded.

16184. The Controller shall reduce the amount of the obligation secured by the lien against the real property by the amount of any payments received for that purpose and by notification of any amounts paid by the Franchise Tax Board pursuant to Section 20564 or by notification by the Franchise Tax Board of amounts authorized pursuant to subdivision (f) of Section 20621 of the Revenue and Taxation Code. The Controller shall also increase the amount of the obligation secured by such lien by the amount of any subsequent payments made pursuant to Section 16180 with respect to the real property and to reflect the accumulation of interest. All such increases and decreases shall be entered in the record described in Section 16181.

16185. Notwithstanding the provisions of Section 16182, provided the interests of the state are adequately protected, the Controller may subordinate the lien for postponed real property taxes where the Controller determines subordination is appropriate in order to permit the maintenance, improvement, alteration, or addition to the real property which is subject to the lien.

A recital in a certificate of subordination, executed by the Controller, recorded in the county wherein the notice of lien for postponed property taxes has been recorded, subordinating such lien to specifically identified liens or encumbrances shall be conclusive in favor of all persons or entities thereafter dealing with the real property.

16186. If at any time the amount of the obligation secured by the lien for postponed property taxes is paid in full or otherwise discharged, the Controller, or the authorized delegate of the Controller, shall:

(a) Execute and cause to be recorded in the office of the county recorder of the county wherein the real property described in the lien is located, a release of the lien conclusively evidencing the satisfaction of all amounts secured by the lien. The cost of recording the release of the lien shall be added to and become part of the

obligation secured by the lien being released.

(b) Direct the tax collector to remove from the secured roll, the information required to be entered thereon by paragraph (1) of subdivision (a) of Section 2514 of the Revenue and Taxation Code with respect to the property described in the lien.

(c) Direct the assessor to remove from the assessment records applicable to the property described in the lien, the information required to be entered on such records by Section 2515 of the Revenue and Taxation Code.

16187. (a) In the event of a judicial foreclosure of any lien senior in priority to the lien provided by Section 16182, notice shall be given the Controller, in such manner as the Controller may prescribe, not less than 60 days prior to the sale upon judicial or nonjudicial foreclosure of any lien senior in priority to the lien provided by Section 16182, unless the Controller is named and served as a defendant in a judicial proceeding for foreclosure.

(b) In the event of a nonjudicial foreclosure of any lien senior in priority to the lien provided by Section 16182, notice shall be given to the Controller, pursuant to Section 2924b of the Civil Code. However, when the notice of lien for postponed property taxes is recorded subsequent to the recordation of a notice of default, the Controller shall be given notice of sale not less than 25 days prior to such sale provided that the lien for postponed property taxes is recorded more than 30 days before such sale

In the event of a failure to give the notice required by this section, the lien established by Section 16182 shall not be affected by the foreclosure or sale of any such senior lien.

Article 2 Delinquency

16190. All amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall become due if any of the following occurs:

(a) The claimant, who is the sole owner of the residential dwelling, as defined in Section 20583 of the Revenue and Taxation Code, ceases to occupy the premises as his residential dwelling, dies, or sells, conveys, or disposes of the property.

(b) The claimant, who is a coowner of the residential dwelling, as defined in Section 20583 of the Revenue and Taxation Code, with a spouse or another individual eligible to postpone property taxes pursuant to Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of such code, dies, and the surviving spouse or other surviving eligible individual allows any tax or special assessment on the premises described in subparagraph (A) of paragraph (4) of subdivision (b) of Section 20583 of such code to become delinquent or such surviving spouse or other individual ceases to occupy the premises as a residential dwelling, dies, or conveys, or disposes of the property.

(c) The failure of the claimant to perform those acts the claimant

is required to perform where such performance is secured, or will be secured in the event of nonperformance, by a lien which is senior to that of the lien provided by Section 16182.

(d) Postponement was erroneously allowed because eligibility requirements were not met.

16191. The amounts paid pursuant to Section 16180 shall continue to draw interest but amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall not become due and payable if any of the following occurs:

(a) The claimant continues to own and occupy the property a residential dwelling, but ceases to postpone property taxes pursuant to Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code, and does not allow any tax or assessment against the premises, as described in subparagraph (A) of paragraph (4) of subdivision (b) of Section 20583 of such code, to become delinquent.

(b) The surviving spouse of a claimant continues to own and occupy the premises as a residential dwelling, but is ineligible to postpone property taxes pursuant to Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code, or elects not to postpone such taxes, and does not allow any tax or assessment against the premises, as described in subparagraph (A) of paragraph (4) of subdivision (b) of Section 20583 of such code, to become delinquent.

(c) The surviving individual otherwise eligible to postpone property taxes pursuant to Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code continues to own and occupy the premises as a residential dwelling, but elects not to postpone the property taxes pursuant to such chapter, and does not allow any tax or assessment against the premises, as described in subparagraph (A) of paragraph (4) of subdivision (b) of Section 20583 of such code, to become delinquent.

16192. If, at any time, a person meeting the requirements of subdivision (a) or (c) of Section 16191 elects, or any surviving spouse described in subdivision (b) of such section becomes eligible, or otherwise elects, to postpone property taxes pursuant to Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code, payments made pursuant to Section 16180 shall be added to the amount of the lien existing against the residential dwelling

Article 3. Enforcement and Foreclosure

16200. In the event that the Controller receives the notice described in Section 16187 of this code or Section 3375 of the Revenue and Taxation Code, the Controller may take any of the following actions which will best serve the interests of the state:

(a) Out of the amount appropriated by Section 16100, the Controller may pay the amount of any delinquent taxes, interest, or

penalties on the property or the amount of any other obligation secured by a lien or encumbrance on the property and add such amount to the amount secured by the lien on such property provided for in Article 1 (commencing with Section 16180) of this chapter

(b) Notify by United States mail the tax collector or other party that such notice has been received and that the Controller must be given at least 15 days prior notice of the date that the property will be sold at auction. If the Controller elects to proceed under this subdivision, the Controller may use funds appropriated by Section 16100 to bid on the property at the auction up to the amount secured by the state's lien on the property and any lien on such property having priority over the state's lien. All additional amounts paid pursuant to this subdivision shall be added to the amount secured by the lien on such property provided for in Article 1 (commencing with Section 16180) of this chapter

(c) Acknowledge by United States mail that the notice required by Section 16187 of this code or Section 3375 of the Revenue and Taxation Code has been received.

16201. If the Controller, by reason of the notice described in Section 3375 of the Revenue and Taxation Code or by reason of information from any other source, determines that all amounts owing under Article 1 (commencing with Section 16180) of this chapter have become due and payable pursuant to Section 16190, the Controller may take any of the following actions which will best serve the interest of the state:

(a) The Controller may demand payment of such amount from any person liable therefor.

(b) If the Controller has reasonable cause to believe that sale of the property will not satisfy the amount secured by the state's lien, the Controller may file a claim against the estate of any decedent whose property is liable for such amount or the Controller may request the Attorney General to bring an action under Section 2931c of the Civil Code to recover the amount of the state's lien

(c) The Controller may direct the Department of General Services to sell such property pursuant to Chapter 4.5 (commencing with Section 14735) of Part 5.5 of Division 3 of this title.

Article 4. Impound Accounts

16210. In the event that the amount secured by the state's lien provided for in Article 1 (commencing with Section 16180) of this chapter is paid by reason of the condemnation of the property on which the lien attaches, the funds so received shall be placed in an impound account for a period of 18 months.

16211. The claimant under Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose residential dwelling was subject to condemnation may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a lien against

the new residential dwelling from the time the Controller records the lien under Section 16182.

The Controller shall subordinate such lien to the lien of the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of such subordination Such lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

16212. An amount drawn pursuant to Section 16211 shall be treated as an amount paid pursuant to Section 16180 for all purposes of this chapter.

16213. At the end of the 18-month period specified in Section 16210, all funds remaining in an impound account shall be transferred to the State General Fund

16214. All moneys in an impound account created pursuant to this article are continually appropriated to the Controller for the purposes of this article.

SEC. 6. Section 27282 of the Government Code is amended to read:

27282. (a) The following documents may be recorded without acknowledgment, certificate of acknowledgment, or further proof:

(1) A judgment affecting the title to or possession of real property, authenticated by the certificate of the clerk of the court in which the judgment was rendered.

(2) A notice of location of mining claim.

(3) Certificates of amounts of taxes, interest and penalties due and extensions thereof executed by the state, county, or city taxing agencies or officials pursuant to Sections 2191.3, 2191.4, 6757, 7872, 8996, 10099, 11495, 16063, 16064, 18881 through 18883, inclusive, 26161 and 30322 of the Revenue and Taxation Code, and Section 1703 of the Unemployment Insurance Code, and releases or subordinations executed pursuant to Sections 2191.4, 6758, 6759, 7873, 8997, 10100, 11496, 14307, 14308, 16066, 16067, 18884, 18885, 26162, 30323 and 30324 of the Revenue and Taxation Code, and Sections 1704 and 1705 of the Unemployment Insurance Code.

(4) Notices of lien for postponed property taxes executed pursuant to Sections 16185 and 16186.

(b) Any document described in this section, from the time it is filed with the recorder for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees.

SEC. 7. Section 2505 of the Revenue and Taxation Code is amended to read:

2505. (a) Except as provided in subdivision (b), the assessor, tax collector, or treasurer for any city or county may in his discretion accept negotiable paper in payment of any tax, or assessment, or on a redemption.

(b) The tax collector of a county shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the county tax bill The tax collector, treasurer, or other official charged with the duty of collecting taxes for a chartered city which levies and collects its own property taxes shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the tax bill of such city. A certificate for partial payment shall not be accepted unless accompanied by an amount sufficient to fully pay the remaining ad valorem property taxes, special assessment, or other charge or fee appearing on the respective tax bill installment.

(c) Except as provided in subparagraph (B) of paragraph (4) of subdivision (b) of Section 20583 and in subdivision (c) of Section 20602, a certificate of eligibility shall not be used to pay any delinquent penalties, costs, fees, or interest, or any redemption charges

SEC. 8 Section 2514 is added to the Revenue and Taxation Code, to read

2514. (a) Upon receipt of a certificate of eligibility described in Section 20602 signed by the claimant, the claimant's spouse, or authorized agent appointed under regulations adopted by the Controller pursuant to Section 20603, the tax collector shall ascertain whether the amount of money entered on the certificate by such claimant or agent, when added to other amounts available for such purpose, are sufficient to pay the amount due and owing.

If such is the case, the tax collector or his designee shall countersign the certificate and mark the tax paid. Once signed and countersigned, a certificate of eligibility shall be deemed a negotiable instrument for purposes of all laws of this state, as specified in subdivision (c) of Section 20602. Upon acceptance of such a certificate:

(1) The tax collector shall enter the fact that taxes on the property have been postponed in appropriate columns on the secured roll. This information may be entered in that portion of the secured roll which has been designated for sale to the state information required by Section 3439.

(2) The tax collector shall determine if the property described in the certificate of eligibility is subject to a lien recorded pursuant to Section 16182 of the Government Code. If the property is not subject to such a lien, the tax collector shall enter the amount paid by use of the certificate, the date of such payment, the Controller's identification number shown on the certificate of eligibility, the address of the property covered by the certificate, and the name of the claimant as shown on the certificate on a "Notice of Lien for Postponed Property Taxes" form which shall be provided by the Controller. The tax collector shall thereafter forward such notice of lien form to the assessor.

(3) With respect to a claimant whose property taxes are paid by

a lender from an impound, trust, or other type of account described in Section 2954 of the Civil Code, the tax collector shall notify the auditor of the claimant's name and address, and the amount of money entered on the certificate.

The auditor, treasurer, or disbursing officer shall send a check in the amount of money entered on the certificate to said claimant within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received from the claimant, whichever is later.

(b) The procedures established by this chapter shall not be construed to require a lender to alter the manner in which a lender makes payment of the property taxes of such claimant.

SEC. 9. Section 2515 is added to the Revenue and Taxation Code, to read:

2515. Upon receipt of a "notice of lien for postponed property taxes" from the tax collector, the assessor shall:

(a) Enter, on the notice of lien, a description of the real property for which the taxes have been paid by use of a certificate of eligibility pursuant to Section 2514. Such description shall be a "metes and bounds," "lot-block-tract," or such other description as is determined by the Controller to sufficiently describe the real property for the purpose of securing the state's lien.

(b) Enter on the notice of lien, the names of all record owners of the property described under subdivision (a) of this section, as disclosed by the assessor's records.

(c) Upon entry of the information required by subdivisions (a) and (b) of this section on the notice of lien, the assessor shall forward the notice of lien to the county recorder.

(d) Enter on the assessment records applicable to such property, the fact that the taxes on the property have been postponed and the Controller's identification number, and shall, when such record reveals a change in the ownership status of the property subsequent to the date of entry of the postponement information thereon, notify the Controller of such change in the ownership status in the manner prescribed by the Controller.

SEC. 10. Chapter 7 (commencing with Section 3201) is added to Part 5 of Division 1 of the Revenue and Taxation Code, to read:

CHAPTER 7. WARRANT FOR COLLECTION OF TAXES

3201. Upon being directed by the Controller to sell a residential dwelling, pursuant to Chapter 4.5 (commencing with Section 14735) of Part 5.5 of Division 3 of Title 2 of the Government Code, the Department of General Services shall issue a warrant for the enforcement of the lien for postponed property taxes and the collection of all amounts secured thereby.

3202. The warrant shall be recorded in the county in which the real property is located in such manner as will impart constructive notice of its recordation and shall be directed to the sheriff or

marshal and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution.

3203 The Department of General Services shall pay or advance to the sheriff or marshal, the same fees, commissions, and expenses as are provided by law for similar services pursuant to a writ of execution. The Department of General Services, and not the court, shall approve the fees for newspaper publication.

3204. The fees, commissions, and expenses incurred by the Department of General Services in the issuance, recordation, and enforcement of the warrant for collection of postponed property taxes shall be added to and become a part of the lien for postponed taxes.

SEC. 11 Section 3375 is added to the Revenue and Taxation Code, to read:

3375. The tax collector shall notify the Controller, in such manner as the Controller shall direct, of all property subject to a "Notice of Lien for Postponed Property Taxes" recorded pursuant to Section 16182 of the Government Code, which is sold to the state for unpaid taxes subsequent to the date of entry on the secured roll of the information required by paragraph (1) of subdivision (a) of Section 2514.

SEC. 12. Section 17037 of the Revenue and Taxation Code is amended to read:

17037 Provisions which are related to this part include:

(a) Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code, relating to the Tax Preparers Act.

(b) Part 10.5 (commencing with Section 20501) of this division.

SEC. 13. Part 10.5 (commencing with Section 19501) of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 14. Part 10.5 (commencing with Section 20501) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 10.5. HOMEOWNERS AND RENTERS PROPERTY TAX ASSISTANCE LAW

CHAPTER 1. HOMEOWNERS AND RENTERS ASSISTANCE

Article 1. General Provisions and Definitions

20501. This chapter shall be known and may be cited as the "Homeowners and Renters Property Tax Assistance Law."

20502. Unless the context otherwise requires, the definitions given in this chapter shall govern construction of this part.

20503. "Income" means adjusted gross income (as defined in Section 17072) plus cash amounts which are excluded from gross income (as defined in Section 17071) by Article 3 (commencing with Section 17131) of Chapter 3 of Part 10 of this division, cash public

assistance and relief, the gross amount of pensions and annuities, railroad retirement and social security benefits (except Medicare benefits), unemployment insurance payments, cash veterans' benefits, interest received from any source, preference income (as defined in Section 17063), amounts contributed to a tax-sheltered retirement plan or deferred compensation plan, and gifts or inheritances in excess of three hundred dollars ($300) (other than transfers between members of the household). Income does not include alimony deductible under Section 17263, or surplus food or other relief in kind supplied by a governmental agency or assistance received under this part.

(a) For purposes of this chapter, total income shall be determined for the calendar year (or approved fiscal year ending within such calendar year) which ends within the fiscal year for which assistance is claimed.

(b) For purposes of Chapter 2 (commencing with Section 20581) of this part, total income shall be determined for the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed.

20504. "Household income" means all income received by all persons of a household while members of such household. In the case of a nonresident claimant, "household income" also includes all income of the claimant during the year without regard to source.

20505. (a) "Claimant" means an individual who was a member of the household and was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (a) or (b) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (a) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) "Senior citizen claimant" means a claimant who is 62 years of age or older on the last day of the calendar or approved fiscal year designated in subdivision (a) or (b) of Section 20503, whichever is applicable.

(c) For purposes of Chapter 2 (commencing with Section 20581) of this part, "claimant" means an individual who is an "owner-claimant" as defined in subdivision (a) and a "senior citizen claimant" as defined in subdivision (b).

20506. In the case of an owner-claimant, "household" includes the claimant and all other persons, except bona fide renters, minors, or students (as defined in paragraph (5) of subdivision (c) of Section 17054), whose principal place of residence is the residential dwelling of the claimant. In the case of a renter-claimant, "household" includes the claimant, his or her spouse, and all other persons who reside on the premises, except renters, minors, or students (as defined in paragraph (5) of subdivision (c) of Section 17054), and owners of the same principal place of residence.

20507 (a) A claimant shall not lose his or her eligibility for

purposes of this part if he or she is temporarily confined to a hospital or medical institution for medical reasons where the residential dwelling was the principal place of residence of the claimant immediately prior to such confinement

(b) For purposes of this section, "medical institution" means a facility operated by, or licensed by, the United States, one of the several states, a political subdivision of a state, the State Department of Health, or exempt from such licensure pursuant to subdivision (c) of Section 1312 of the Health and Safety Code.

20508. "Residential dwelling" means a dwelling and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned and occupied as the principal place of residence by the claimant, the claimant and his spouse, or by the claimant and some other individual, located in this state, and receiving the homeowners' exemption. It shall also include a residential unit in a cooperative housing corporation (as defined in Section 17265) occupied by the owner of shares or a membership interest in such corporation as his or her principal residence, mobilehomes which are assessed as realty for local property tax purposes and the land on which situated, houseboats, and other similar living accommodations, as well as a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It shall also include premises occupied by reason of the claimant's ownership of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, when such association requires the claimant to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a claimant wherein he is required by law to pay a property tax by reason of his ownership (including a possessory interest) in the dwelling, the land, or both. (Owned includes a vendee in possession under a land sale contract and of one or more joint tenants or tenants in common.)

20509. "Rented residence" means premises rented and occupied by the claimant as his or her principal place of residence during the calendar year for which assistance is claimed. The term "rented residence" shall not include:

(a) Premises which are exempt from property taxation, except those premises on which the owner pays possessory interest taxes, or makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

(b) Premises which are not located in this state.

For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a mobilehome.

20510. "Rent" means rent paid at arms length solely for the right of occupancy of a rented residence. At least fifty dollars ($50) per

month must be paid by each renter-claimant for a rented premise in order for the renter to be a qualified renter-claimant.

20511. "Property tax" shall mean only those property taxes for the fiscal year in which application for assistance is made pursuant to Section 20541

When a residential dwelling is owned by two or more individuals as joint tenants or tenants in common and one or more of such persons is not a member of the claimant's household, the term "property tax" shall include only that part of the taxes levied which reflects the ownership of the claimant and other members of the household.

The property tax proration required by the preceding sentence shall not apply to the extent of the ownership interest of the claimant and one or more of the following:

(a) The claimant's spouse.

(b) The parents, children (natural or adopted), or grandchildren of either the claimant or the claimant's spouse, or

(c) The spouse of any person enumerated in subdivision (b) of this section.

20512. (a) "Property taxes accrued" means current property taxes (exclusive of interest, penalties, principal payments on improvement bonds and charges for service) levied against a claimant's residential dwelling by any taxing agency (as defined in Section 121) for any fiscal year ending on or after June 30, 1977.

(b) Whenever a residential dwelling is an integral part of a large unit such as a farm, or a multipurpose or multidwelling building, "property taxes accrued" shall be that percentage of the total property taxes accrued as the value of the residential dwelling is of the total value.

(c) Where a claimant is purchasing the residential dwelling under an unrecorded contract of sale, the Franchise Tax Board may require a copy of the contract or other evidence to establish such fact.

(d) Where the residential dwelling is a dwelling owned by the claimant on land owned by a nonprofit incorporated association, the Franchise Tax Board may require an affidavit under penalty of perjury containing sufficient evidence to establish such fact and that the nonprofit incorporated association requires that the claimant pay a pro rata share of the property tax levied against the association's land.

(e) Where the residential dwelling consists of premises occupied by reason of the claimant's possessory interest in such premises, the Franchise Tax Board may require an affidavit under penalty of perjury stating that the premises are occupied by reason of ownership of a possessory interest in a dwelling that is otherwise exempt from property taxation.

(f) Property tax accrued for the purpose of an owner of shares or a membership interest in a cooperative housing corporation (as defined in Section 17263) shall be the amount allowed or allowable as a deduction by Section 17265 for the income year prescribed in

subdivision (a) of Section 20503.

(g) The Franchise Tax Board shall determine the amount of "property taxes accrued" when a claimant owns two or more residential dwellings during the same year

20513. When a "rented residence," as defined in Section 20509, is rented and occupied by the claimant as his principal place of residence for less than 12 months during the calendar year for which assistance is claimed, the amount of assistance as provided in Section 20544 shall be prorated pursuant to rules provided by the Franchise Tax Board

20514. Assistance shall not be allowed under this chapter if gross household income, after allowance for actual cash expenditures which are reasonable, ordinary, and necessary to realize such income, exceeds twenty thousand dollars ($20,000)

Article 2. Computations

20541 (a) Subject to the limitations provided in this chapter a claimant may, to the extent provided in Section 20543 or 20544, whichever is applicable, file with the Franchise Tax Board, pursuant to Article 3 (commencing with Section 20561) of this chapter, a claim for assistance from the State of California of a sum equal to a percentage of the property taxes accrued and paid by the claimant on his residential dwelling or a sum equal to the percentage of the applicable statutory property tax equivalent under Section 20544 with respect to a claimant renting his residence

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on a percentage of the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544 In case of an owner-claimant, the assistance shall be equal to the applicable percentage of property taxes paid on the assessed value of the residential dwelling up to, and including, eight thousand five hundred dollars ($8,500) No assistance shall be allowed for property taxes paid on that portion of assessed value of a residential dwelling exceeding eight thousand five hundred dollars ($8,500). No assistance shall be provided if the amount of the assistance claim is five dollars ($5) or less.

(b) For purposes of allowing assistance provided for by this section:

(1) (A) Only one owner-claimant from one household each year shall be entitled to assistance under this chapter. When two or more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine who the owner-claimant shall be. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(B) When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant,

each qualified individual shall be entitled to assistance under this part.

For the purposes of this subparagraph, a husband and wife residing in the same premises shall be presumed to be one renter.

(2) Except as provided in paragraph (3), the right to file a claim shall be personal to the claimant and shall not survive his death; however, when a claimant dies after having filed a timely claim, the amount thereof may be disbursed to the surviving spouse and, if no surviving spouse, to any other member of the household who is a qualified claimant. If there is no surviving spouse or otherwise qualified claimant, the claim shall be disbursed to any other member of the household. In the event two or more individuals qualify for payment as either an otherwise qualified claimant or a member of the household, they may determine which of them will be paid. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(3) If, after January 1 of the property tax fiscal year for which a claim may be filed, a claimant dies without filing a timely claim, a claim on behalf of such claimant may be filed by the surviving spouse within the filing period prescribed in subdivision (a) or (b) of Section 20563.

20543. The amount of assistance for a claimant owning his residential dwelling shall be based on claimant's household income for the period set forth in Section 20503.

The percentage of assistance for which each claimant owning his residential dwelling shall be eligible shall be based on the following scale:

If the total household income (as defined in this part) is not more than	The percentage of tax on the first $8,500 of value (as determined for tax purposes) used to provide assistance is
$3,000	96%
3,200	94
3,400	92
3,600	90
3,800	88
4,000	86
4,200	84
4,400	82
4,600	80
4,800	78
5,000	76
5,200	73
5,400	69
5,600	65
5,800	61
6,000	57

6,200	53
6,400	49
6,600	45
6,800	41
7,000	37
7,200	34
7,400	31
7,600	28
7,800	25
8,000	22
8,200	20
8,400	18
8,600	16
8,800	14
9,000	12
9,500	10
10,000	8
10,500	7
11,000	6
11,500	5
12,000	4

20544. The amount of assistance for a claimant renting his residence shall be based on the claimant's household income for the period set forth in Section 20503.

The percentage of assistance for which each claimant renting his residence shall be eligible shall be based on the following scale:

If the total household income (as defined in this part) is not more than	The statutory property tax equivalent is	The percentage of the statutory property tax equivalent used to provide assistance is
$1,400	$220	96%
1,600	220	92
1,800	220	87
2,000	220	81
2,200	220	75
2,400	220	69
2,600	220	63
2,800	220	57
3,000	220	51
3,200	220	45
3,400	220	39
3,600	220	33
3,800	220	27
4,000	220	21
4,250	220	16
4,500	220	12
4,750	220	8

5,000 ..... 220..... 4

Article 3 Claims

20561 Each claimant applying for assistance under Article 2 (commencing with Section 20541) of this chapter shall file a claim under penalty of perjury with the Franchise Tax Board on a form supplied by such board. The claim shall contain:

(a) Evidence acceptable to the Franchise Tax Board that the claimant was a senior citizen claimant as defined in subdivision (b) of Section 20505.

(b) A statement showing the household income for the period set forth in Section 20503.

(c) If the claimant owns a residential dwelling, a copy of the tax bill for such property. If the claimant rents his residence, a statement describing the rented premises and showing the name and address of the landlord, or landlords, the amount of rent paid per month, the total rent paid during the prior calendar year, for which assistance is claimed, and any other information required by the Franchise Tax Board to administer this chapter.

(d) Other information required by the Franchise Tax Board to establish eligibility for assistance

(e) If a claimant submits a statement containing the essential data set forth in this section under penalty of perjury, the Franchise Tax Board shall compute the amount of assistance and authorize payment. The amount of any assistance otherwise payable under this part may be applied by the Franchise Tax Board against any liability due from the claimant (or the claimant's spouse if a joint return is filed) under any law administered by the Franchise Tax Board.

20562 For the purposes of this chapter, the requirement that property taxes be paid before assistance can be granted may be waived if the taxes were not paid for reasonable cause and the claimant declares under penalty of perjury that the assistance granted will be promptly applied to pay delinquent property taxes on the residential dwelling to the extent reasonably feasible under the circumstances.

20563 (a) The claim on which the assistance is based shall be filed after May 15 of the fiscal year for which assistance is claimed but on or before August 31 succeeding the fiscal year for which assistance is claimed.

(b) The state shall assist the claimant after June 30 and before October 31 of the calendar year in which the claim is filed, except that if the claim is defective, assistance shall be made as promptly as is practicable after the claim has been perfected. The Franchise Tax Board, whenever in its judgment good cause exists, may grant a reasonable extension of time for filing a claim or allow the late filing of a claim but except as provided in subdivision (c), no filing shall be later than March 1 succeeding the fiscal year for which assistance is claimed

(c) A claimant who, because of a medically certified incapacity, is prevented from filing a timely claim, shall be permitted to file a claim within six months after the end of his medical incapacity or three (3) years succeeding the end of the fiscal year for which assistance is claimed, whichever date is earlier.

20564. (a) If a lien for the assistance fiscal year has been acquired against the property of the claimant by reason of the claimant's use of a certificate of eligibility which was paid pursuant to Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code, the net payment otherwise due such claimant shall first be applied by the Controller to reduce the obligation secured by such lien.

(b) If a lien has been reduced as provided in subdivision (a) and the Franchise Tax Board subsequently determines that the assistance allowed for such year was erroneous, the Franchise Tax Board shall notify the Controller who will make an appropriate adjustment to the lien.

CHAPTER 2. PROPERTY TAX POSTPONEMENT

Article 1 General Provisions and Definitions

20581. This chapter shall be known and may be cited as the "Senior Citizens Property Tax Postponement Act of 1977."

20582. Unless the context otherwise requires, the definitions given in Chapter 1 (commencing with Section 20501) of this part and in this article shall govern the construction of this chapter.

20583. (a) "Residential dwelling" means a dwelling and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned and occupied by the claimant, the claimant and his spouse, or by the claimant and another individual eligible for postponement under this chapter and receiving a homeowners' exemption pursuant to Section 218, it shall include condominiums, mobilehomes which are assessed as realty for local property tax purposes and the land on which situated.

(b) "Residential dwelling" does not include any of the following:

(1) Any residential dwelling in which the claimant, the claimant and spouse, or the claimant and another individual eligible for postponement under this chapter do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation at the time of the initial application.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless such claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate.

(3) Any residential dwelling on which the claimant does not receive a separate tax bill. If the residential dwelling is a part of a larger parcel taxed as a unit, no postponement shall be allowed under

this chapter

(4) (A) Except as provided in subparagraph (B), any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this chapter is made.

(B) Any taxes or assessments described in subparagraph (A) which are delinquent on July 1, 1978, shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code, provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the amount appropriated by Section 16100, any delinquent penalties, interest, fees or other charges resulting from the delinquency of such taxes and assessments for fiscal year 1976–78 shall be canceled.

20584. "Property taxes" means all ad valorem property taxes, special assessments, and other charges or user fees appearing on the county tax bill and the ad valorem property taxes, special assessments, or other charges or user fees appearing on the tax bill of any chartered city which levies and collects its own property taxes.

20585. Postponement shall not be allowed under this chapter if household income exceeds either of the following amounts:

(a) For the 1976 calendar year or for an approved fiscal year commencing within such calendar year, household income shall not exceed twenty thousand dollars ($20,000).

(b) For all subsequent calendar years and approved fiscal years, postponement shall not be allowed under this chapter if household income exceeds an amount determined as follows:

(1) Prior to March 1, 1978 and prior to March 1 of each year thereafter, the California Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items for the period commencing January 1 of the prior calendar year to January 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the percentage change figure furnished pursuant to paragraph (1).

(3) In 1978, the Franchise Tax Board shall multiply twenty thousand dollars ($20,000) by the inflation adjustment factor to

determine the maximum allowable gross household income for the 1977 calendar year and for approved fiscal years commencing within such years. In 1979 and subsequent calendar years, the Franchise Tax Board shall multiply the maximum allowable household income determined for the preceding calendar year by the inflation adjustment factor to determine the maximum allowable household income for the applicable calendar year and approved fiscal years commencing within such calendar year.

Article 2. Postponement

20601. Subject to the limitations provided in this chapter, a claimant may file with the Franchise Tax Board, pursuant to Article 3 (commencing with Section 20621) of this chapter, a claim for postponement from the State of California of a sum equal to, but not exceeding, the amount of property taxes, as defined in Section 20584, due on the residential dwelling for the fiscal year for which the claim is made. Claims for the 1977–78 fiscal year only shall also constitute a claim for any amounts described in subparagraph (B) of paragraph (4) of subdivision (b) of Section 20583.

20602. (a) Upon approval of a claim described in Section 20601, the Franchise Tax Board shall report to the State Controller the information required by the Controller to produce and issue the certificates of eligibility in accordance with subdivision (b) of this section.

(b) Upon receipt of the information described in subdivision (a) of this section, the State Controller shall issue to the claimant a certificate of eligibility, which shall consist of two parts, both of which shall contain the name of the claimant, the address of the residential dwelling on which the claimant has applied for property tax postponement, and such other information and in such form as the State Controller shall prescribe. In the event that such residential dwelling is located in a chartered city which levies and collects its own taxes, the State Controller shall issue a duplicate certificate of eligibility to pay all or any part of the property taxes appearing on such city's tax bill. Each part of a certificate of eligibility shall be payable in an unspecified amount and shall contain statements to identify the property tax installment to which it may be applied.

(c) The Controller shall prescribe the form of the certificates of eligibility to pay all delinquent taxes and assessments described in subparagraph (B) of paragraph (4) of subdivision (b) of Section 20583.

Upon or accompanying each certificate shall be a brief statement explaining that (1) those taxpayers whose property taxes are paid by a lender via an impound, trust or other similar account should enter the total amount of each installment on their respective certificates and mail both certificates to the tax collector at the same time, and (2) those taxpayers will receive a refund check from the county or city in the amount they entered on each certificate, within 30 days

following the date on which the installment is paid by the lender or the certificate of eligibility is received by the tax collector, whichever is later, and (3) the intent of this procedure is to make sure the taxes on the claimant's dwelling are not paid twice.

(d) When a certificate of eligibility has been signed by the claimant, his spouse, or authorized agent and countersigned by the person authorized to collect property taxes or assessments for the local agency, such certificate shall constitute a written promise on the part of the State of California to pay the sum of money specified therein and such signed and countersigned certificate shall be deemed a negotiable instrument for the sole purpose of the payment of property taxes owing in the name of the claimant or his spouse for purposes of all laws of this state

(e) A certificate of eligibility shall be valid for the purposes of this section only for the duration of the fiscal year in which it is issued.

(f) The Controller shall issue all certificates of eligibility for approved claims for the current fiscal year which were filed on or before September 30 between November 1 and November 15 of the same fiscal year.

(g) The Controller shall issue all certificates of eligibility for approved claims for the current fiscal year which were filed on or before January 31 between March 1 and March 15 of the same fiscal year.

(h) The Controller shall prescribe the manner in which a claimant eligible under this chapter, who has been issued a certificate of eligibility which is lost or destroyed prior to being filed with the local agency pursuant to subdivision (c) may obtain a duplicate copy of said certificate as a replacement.

20603. The Controller shall prescribe the manner in which a claimant eligible under this chapter, who for any reason is incapacitated, may appoint his or her spouse or an authorized agent, or have any such person appointed for such claimant, for all purposes of claiming and using certificates of eligibility for the postponement of property taxes.

20604. On or before May 1 of each year, the Franchise Tax Board shall send a notice to each taxpayer who filed a claim for postponement of taxes pursuant to this chapter for the current fiscal year The notice shall be substantially in the following form.

To: (name of taxpayer)

If you wish to postpone the collection of property taxes on your residence for the assessment year beginning on July 1, _____, you must file a claim for postponement not later than September 30, _____, with the Franchise Tax Board.

If you fail to file your claim for postponement on or before September 30, _____, you will have to pay in full the first installment of the property tax bill on your residence for the coming assessment year.

If you fail to file by the above deadline, you may still be eligible

to postpone the collection of the second installment of the property tax bill on your residence, if you file your claim for postponement on or before January 31, _____. If you miss this second deadline, you will have to pay in full the second installment of the property tax bill on your residence for the coming assessment year

Even if you do not now plan to postpone the collection of your property taxes for the coming assessment year, you may wish to file a claim after May 15. There is no obligation to postpone any or all of your property taxes if you file a claim and receive a certificate of eligibility from the State Controller

20605. The postponement of property taxes pursuant to this chapter shall not affect the obligation of a borrower to continue to make payments to a lender with respect to an impound, trust, or other type of account described in Section 2954 of the Civil Code.

Article 3. Claims

20621. Each claimant applying for postponement under Article 2 (commencing with Section 20601) of this chapter shall file a claim under penalty of perjury with the Franchise Tax Board on a form supplied by such board The claim shall contain:

(a) Evidence acceptable to the Franchise Tax Board that the person was a "senior citizen claimant "

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in such manner as the Franchise Tax Board may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) Documentation evidencing the current existence of any abstract of judgment, federal tax lien, or state tax lien filed or recorded against the applicant, and any recorded mortgage, or deed of trust which affect the subject residential dwelling, for the purpose of determining that the claimant possesses a 20 percent equity in the subject residential dwelling as required by paragraph (1) of subdivision (b) of Section 20583.

Actual costs, not in excess of fifty dollars ($50), paid by the claimant to obtain the documentation shall, in the event the Controller issues a certificate of eligibility, reduce the amount of the lien for such year, but not the face amount of the payment prescribed in Section 16180.

(g) Other information required by the Franchise Tax Board to establish eligibility.

20622. The claim for postponement shall be filed after May 15th and on or before September 30 of the calendar year in which the

fiscal year for which postponement is claimed commences, in order for the claimant to be eligible for postponement of taxes on both the first and second installment of taxes in the fiscal year for which postponement is claimed.

Claimants who file for postponement after September 30 and on or before January 31 of the fiscal year for which postponement is claimed will be eligible for postponement of taxes only on the second installment of taxes in such fiscal year.

CHAPTER 3. ADMINISTRATION

20641. Forms filed pursuant to this part shall not be under oath but shall contain, or be verified by, a written declaration that they are made under the penalty of perjury. Such forms and all other forms required by this part shall require such information as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board. The Franchise Tax Board shall prepare blank forms for the claimant and shall distribute them throughout the state and furnish them upon application

20642. Except as otherwise provided in this part, the Franchise Tax Board shall prescribe all rules and regulations necessary for the enforcement of this part and may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect

20643. If any claimant fails or refuses to furnish any information requested in writing by the Franchise Tax Board, pursuant to this part, or files a fraudulent claim, the assistance or postponement authorized by this part shall be disallowed.

20644. Any claim for assistance or postponement which is less than that claimed on the form due to a mathematical error is not a fraudulent claim. Postponement or assistance of any amount erroneously claimed on the form is prohibited.

20645. If the Franchise Tax Board determines that assistance has been erroneously granted under this part, or if a claimant is aggrieved by the denial in whole or in part for assistance or postponement, then the provisions in Chapters 17 (commencing with Section 18401), 18 (commencing with Section 18551), 19 (commencing with Section 18801), and 20 (commencing with Section 19051) of Part 10 shall apply, as if the amount in controversy was a tax, unless the context indicates otherwise. For the purposes of Chapter 21 (commencing with Section 19251) of Part 10 (relating to Disclosure of Information), a claim filed pursuant to this part shall be deemed a tax return.

20646. Unless otherwise specifically provided, the provisions of any law effecting changes in this part shall be applied with respect to claims filed for property tax assistance for fiscal years beginning after enactment.

SEC. 15. Section 11008.4 is added to the Welfare and Institutions Code, to read:

11008.4. Property taxes (1) as defined in Section 20584 of the

Revenue and Taxation Code, which are postponed by a person pursuant to Chapter 2 of Part 10.5 (commencing with Section 20581) of Division 2 of the Revenue and Taxation Code, and (2) as defined in Section 20511 and 20512 of the Revenue and Taxation Code, on which a person is granted assistance pursuant to Chapter 1 of Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code, shall not be considered as income or resources in determining the amount payable to any person under the aid to families with dependent children program, the Burton-Moscone-Bagley Citizens' Income Security Act for Aged, Blind and Disabled Californians, the aid to the potentially self-supporting blind program, the Medi-Cal Act, in computing net income or financial liability under Section 14005.7 or 14005.12, or county aid and relief to indigents

This section shall not be construed to limit the provisions of Section 11008 or 11008.1.

SEC. 16. The provisions of Chapter 2 (commencing with Section 20581) of Part 10 5 of Division 2 of the Revenue and Taxation Code shall have no application to the owner of shares or membership interest in a cooperative housing corporation (as defined in Section 17265 of such code) until claims may be made to postpone property taxes for the 1978–79 fiscal year

SEC 17. It is the intent of the Legislature to provide in subsequent legislation for an augmentation to Section 16100 of the Government Code, in order to properly fund the amounts the Controller is required to pay pursuant to Section 16180 of the Government Code, in order to properly fund the amounts the Controller is required to pay pursuant to Section 16180 of the Government Code, as added by Section 3 of this act

SEC. 18 There is hereby appropriated from the General Fund for the 1977–78 fiscal year to the State Controller the sum of two hundred twenty thousand dollars ($220,000) for administrative costs incurred under Section 3 of this act, and to the Franchise Tax Board the sum of one hundred twenty-five thousand dollars ($125,000) for administrative costs incurred under the Senior Citizens Property Tax Postponement Act of 1977 as added by Section 11 of this act.

SEC 19. County auditors may report to the State Controller claims for reimbursement of state-mandated county administrative costs incurred pursuant to Sections 8 and 9 of this act, provided, that the unit cost of such mandates to the county tax collector shall not exceed fifty cents ($0.50) per applicant for purposes of state reimbursement. The Controller shall report to the Legislature on the amount of such claims on or before the first day of October next following the operative date of this act, in order that the Legislature may appropriate funds for the subventions required by Section 2231 of the Revenue and Taxation Code.

SEC. 20. The provisions of this act shall apply to claims for the 1977–78 fiscal year and thereafter Notwithstanding Sections 20602 and 20622 of the Revenue and Taxation Code, postponement claims

for the first installment of 1977–78 taxes may be filed on or before January 31, 1978. Further, if a postponement certificate for the 1977–78 first installment is tendered to the tax collector by April 10, 1978, then the tax collector shall accept the certificate as being timely tendered. In such event, if the first installment was previously paid, then the auditor, treasurer or disbursing officer shall send a check to the claimant in the amount entered on the certificate within 30 days. If the first installment was not previously paid, then any delinquent penalties, interest, fees or other charges resulting from the delinquency shall be canceled. For postponement claims for 1977–78 only, the equity test provided in Section 20621 of the Revenue and Taxation Code, may be satisfied by a declaration under penalty of perjury by the claimant, subject to subsequent audit verification by the Franchise Tax Board

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

Proposition No. 13 (Res. Ch. 2, Stats. 1976) on the ballot for the primary election held on Tuesday, June 8, 1976, merely authorized the Legislature to provide for the postponement of property taxes by senior citizens on their homes. However, many elderly persons assumed that the measure was self-executing and were dismayed to learn that technical problems caused the defeat of Senate Bill No. 2041 of the 1975–76 Regular Session of the Legislature, and that no postponement of property taxes was authorized. In order to remedy this situation and provide this needed property tax relief for California's senior citizens at the earliest possible time, it is necessary for this act to take effect immediately

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CHAPTER 1243

An act to amend Section 2504 of the Education Code, relating to county superintendents of schools, and making an appropriation therefor.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 2504 of the Education Code is amended to read·

2504 The county superintendent may levy a tax rate for capital outlay costs for all purposes, not funded in Section 2502, except that proceeds from this tax may not be used to construct any administration facilities or centers unless, and to the extent that, a tax was levied and collected for such purpose in the 1972–73 fiscal year.

However, the proceeds of such a tax may be used to construct administration facilities or centers, if (1) on January 1, 1977, the county superintendent owned no such facilities, and (2) the county superintendent is dispossessed of leased or rented space used for such purposes, and (3) the proceeds of such a tax have not previously been used by the county superintendent for the construction of administration facilities. The tax rate shall be levied on the areas served, but the rate in any portion of the county shall not exceed five cents ($0.05) per one hundred dollars ($100) of assessed valuation.

CHAPTER 1244

An act to amend Sections 17800, 17800.1, 17800.3, 17802, 17804, 17805, 17806, 17820, 17840, and 17847 of, to add Sections 17804.1, 17804.2, and 17804.4 to, to add and repeal Sections 17804.3 and 17804.5 of, and to repeal Section 17808 of, the Business and Professions Code, relating to counselors, and making an appropriation therefor.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1 Section 17800 of the Business and Professions Code is amended to read:

17800. No person may for remuneration engage in the practice of marriage, family, or child counseling as defined by Section 17800.2, unless he holds a valid license as a marriage, family, or child counselor, or unless he is specifically exempted from such requirement, nor may he advertise himself as performing the services of a marriage, family, child, domestic, or marital consultant, nor in any way use these or any similar titles to imply that he performs these services without a license as provided by this chapter, except that persons licensed under Article 4 (commencing with Section 9040) of Chapter 17 of Division 3 of, and persons licensed under Chapter 6.6 (commencing with Section 2900) of Division 2 of, this code may advertise that they practice marriage, family and child counseling but not that they hold the marriage, family and child counselor's license.

SEC. 2 Section 17800.1 of the Business and Professions Code is amended to read:

17800.1. Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, or the Psychology Licensing Act.

The provisions of this chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his pastoral or professional

duties, nor to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his professional practice.

The provisions of this chapter shall not apply to an employee of a governmental agency or of a school, college, or university, or of an institution both nonprofit and charitable if his or her practice is performed solely under the supervision of the agency, school, or organization by which he or she is employed, and if he or she performs such functions as part of the position for which he or she is employed.

SEC. 3. Section 17800.3 of the Business and Professions Code is amended to read:

17800.3. (a) "Board," as used in this chapter, means the Board of Behavioral Science Examiners.

(b) "Intern," as used in this chapter, means an unlicensed person who has satisfied the qualifications and conditions specified in subdivisions (a) and (b) of Section 17804 and Section 17804.4.

(c) "Trainee," as used in this chapter, means one who is enrolled in a master's or doctor's degree program in marriage, family and child counseling or its equivalent, as specified in paragraphs (1) and (2) of subdivision (a) of Section 17804.

SEC. 4. Section 17802 of the Business and Professions Code is amended to read:

17802. "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings and notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

SEC. 5. Section 17804 of the Business and Professions Code is amended to read:

17804. To qualify for a license an applicant shall have all the following qualifications:

(a) (1) At least a two-year master's degree in marriage, family, and child counseling or a master's degree in counseling psychology or their equivalent, obtained from a school, college, or university accredited by the Western College Association, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency as determined by the board. Equivalent degrees include, but are not limited to, the master's degree in social work from a school accredited by the Council on Social Work Education and the master's degree in child development and family studies.

(2) After September 1, 1978, an applicant shall have a doctor's or a two-year master's degree in marriage, family, and child counseling

or a master's degree in social work, clinical psychology, counseling or a degree determined by the board to be equivalent. Such degree shall be obtained from a school, college, or university accredited as provided in paragraph (1) of subdivision (a).

(b) Must be at least 18 years of age

(c) At least two years experience, in interpersonal relationship, marriage, family and child counseling and psychotherapy under the supervision of a licensed marriage, family and child counselor, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry, or the equivalent as determined by the board. All experience shall be at all times under the supervision of the supervisor who shall, with the person being supervised, be responsible for insuring that the extent, kind and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for the compliance of all laws, rules and regulations governing the practice of marriage, family and child counseling Supervision shall include at least one hour of direct supervision for each week of experience claimed

(d) The applicant shall pass a written examination conducted by the board or persons designated by the board and shall pass an oral examination if required in the discretion of the board for all applicants

SEC 6 Section 17804.1 is added to the Business and Professions Code, to read·

17804 1 Except for persons who have started full-time or continuous graduate study prior to September 1, 1978, a master's or doctor's degree as specified in subdivision (a) of Section 17804 shall include specific instruction in assessment, diagnosis, prognosis, and counseling and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions.

SEC. 7 Section 17804 2 is added to the Business and Professions Code, to read

17804 2. Professional experience for the purpose of satisfying subdivision (c) of Section 17804 shall include supervised marriage, family and child counseling, and up to one-third of the hours may include receiving direct supervision and other professional enrichment activities Such experience may be acquired through employment, provided such employment complies with this section, and Sections 17804, 17804 3, 17804 4, and 17804.5.

SEC. 8 Section 17804 3 is added to the Business and Professions Code, to read

17804 3 Experience as specified in subdivision (c) of Section 17804 may be gained as an intern or trainee under the direct supervision of a licensed marriage, family and child counselor or professional corporation, a licensed clinical social worker or professional corporation, a licensed psychologist or professional corporation, a licensed physician certified in psychiatry or a professional corporation, or a medical clinic, medical hospital, governmental

agency, school, or nonprofit agency providing the supervision as required by this chapter, provided that such experience is gained solely under the supervision or organization by which he or she is employed and that such functions are performed solely as part of the position for which he or she is employed.

The provisions of this section shall be operative only until January 1, 1980, and on and after that date are repealed.

SEC. 9. Section 17804.4 is added to the Business and Professions Code, to read:

17804.4. An unlicensed marriage family and child counselor intern employed under the provision of Section 17804.2 shall: (a) have earned at least a master's degree as specified in subdivision (a) of Section 17804; (b) be registered with the board on a form provided by the board prior to the intern performing any duties; (c) file for renewal of registration annually for a maximum of five years after initial registration with the board; and (d) inform each client or patient prior to performing any counseling functions that he is unlicensed and under the supervision of a licensed marriage, family and child counselor, clinical social worker, psychologist or physician certified in psychiatry, whichever is applicable. Continued employment as an unlicensed marriage, family and child counselor intern after five years shall cease unless the requirements of subdivisions (c) and (d) of Section 17804 are met.

SEC. 10. Section 17804.5 is added to the Business and Professions Code, to read:

17804.5. (a) A licensed marriage, family and child counselor in private practice may employ three unlicensed marriage, family and child counselor interns. A licensed psychologist, licensed clinical social worker, or licensed physician certified in psychiatry may employ two unlicensed marriage, family and child counselor interns.

(b) A licensed marriage, family and child counselor, licensed psychologist, licensed clinical social worker, or licensed physician certified in psychiatry shall, within 30 days of the employment or termination of employment of an intern, notify the board of the employment or termination of employment of the intern. Such notice shall include the name of the intern.

The provisions of this section shall be operative only until January 1, 1980, and on and after that date are repealed.

SEC. 11. Section 17805 of the Business and Professions Code is amended to read:

17805. Every applicant who applies for a license as marriage, family and child counselor shall be examined by the board. The examination shall be as set forth in paragraph (d) of subdivision (2) of Section 17804. Such examination shall be given at least twice a year at the time and place and under such supervision as the board may determine. The board may examine for knowledge in whatever theoretical or applied fields in marriage, family and child counseling as it deems reasonably appropriate. It may examine the candidate with regard to his professional skills and his judgment in the

utilization of appropriate techniques and methods

The board shall retain all written examinations for at least one year following the date of the examination. The board shall keep an accurate transcript of all oral examinations and keep such a transcript as a part of its records for at least one year following the date of examination.

An applicant who has qualified pursuant to the provisions of this chapter shall be issued a license as a marriage, family, and child counselor in such forms as the board may deem appropriate.

SEC 12 Section 17806 of the Business and Professions Code is amended to read:

17806 The board may adopt such rules and regulations as may be necessary to enable it to carry into effect the provisions of this chapter The adoption, amendment or repeal of such rules and regulations shall be made in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code

The board may, by rules or regulation, adopt, amend, or repeal rules of advertising and professional conduct appropriate to the establishment and maintenance of a high standard of integrity in the profession, provided such rules or regulations are not inconsistent with Section 17820 Every person who holds a license to practice marriage, family and child counseling shall be governed by such rules of professional conduct

SEC. 13 Section 17808 of the Business and Professions Code is repealed

SEC 14 Section 17820 of the Business and Professions Code is amended to read·

17820. The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include·

(a) Conviction of a crime, or a plea of nolo contendere if the crime is substantially related to the qualifications, functions, or duties of a marriage, family, and child counselor

(b) Securing a license by fraud or deceit practiced on the board.

(c) Using any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any hypnotic drug or alcoholic beverage to an extent or in a manner dangerous to himself, or to any other person, or to the public and to an extent that such action impairs his ability to perform his work as a marriage, family, or child counselor with safety to the public

(d) Advertising that is not in conformity with this chapter or any rules or regulations promulgated by the board

(e) Violating or conspiring to violate the terms of this chapter

(f) Committing a dishonest or fraudulent act as a marriage, family, or child counselor resulting in substantial injury to another.

(g) Willful, unauthorized communication of information received

in professional confidence.

(h) The supervision of any intern or trainee that is not in conformity with this chapter or any rules or regulations promulgated by the board.

SEC. 15. Section 17840 of the Business and Professions Code is amended to read:

17840. Licenses issued under this chapter shall expire on December 31 of each odd-numbered year, if not renewed.

To renew an unexpired license, the holder thereof, on or before December 31 of each odd-numbered year, shall apply for a renewal on a form prescribed by the director, and pay the renewal fee prescribed by the Board of Behavioral Science Examiners.

SEC. 16. Section 17847 of the Business and Professions Code is amended to read:

17847. The amount of the fees prescribed by the provisions of this chapter which relate to licensing of persons to engage in the business of marriage, family, or child counseling is that fixed by the following schedule:

(a) The application fee shall be thirty dollars ($30).

(b) The renewal fee shall be thirty dollars ($30).

(c) The delinquency fee shall be ten dollars ($10).

(d) The registration fee for an intern shall be fifteen dollars ($15).

(e) The renewal fee for an intern shall be seven dollars ($7).

(f) The examination fee shall be in an amount set by the board not to exceed thirty dollars ($30).

CHAPTER 1245

An act to amend Section 6369 of, and to add and repeal Section 6369.2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1977. Filed with Secretary of State October 1, 1977.]

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

SECTION 1. Section 6369 of the Revenue and Taxation Code is amended to read:

6369. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his own patient for treatment of the patient, or

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist, or

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(b) "Medicines" as used in this section mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include (1) any auditory, ophthalmic or ocular device or appliance, (2) articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, (3) any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section shall mean and include: (1) sutures, whether or not permanently implanted; (2) bone screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; (3) orthotic devices designed to be worn on the person of the user as a brace, support or correction for the body structure; provided, that orthopedic shoes and supportive devices for the foot are not exempt unless they are an integral part of a leg brace or artificial leg; (4) prosthetic devices, other than dentures and auditory, opthalmic and ocular devices or appliances, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body; and (5) artificial limbs and eyes, or their replacement parts, for human beings.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code.

(e) Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section

(f) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription

within the meaning of this section

SEC. 2. Section 6369 of the Revenue and Taxation Code is amended to read:

6369. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of medicines.

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his own patient for treatment of the patient, or

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist, or

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being, or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof

(b) "Medicines" as used in this section mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include (1) any auditory, prosthetic, ophthalmic or ocular device or appliance, (2) articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, (3) any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section mean and include: (1) sutures, whether or not permanently implanted; (2) bone screws bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; and (3) artificial limbs, or their replacement parts, for human beings.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code.

(e) Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section

SEC. 3. Section 6369.2 is added to the Revenue and Taxation Code, to read·

6369.2. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of wheelchairs, crutches, canes, quad canes, and walkers when sold to an individual for the personal use of that individual as directed by a physician.

SEC. 4. Sections 1 and 3 of this act shall remain in effect until January 1, 1983, and as of such date are repealed and Section 2 shall become operative on that date, unless a later enacted statute, which is chaptered before January 1, 1983 revises such date.

SEC. 5. It is the intent of the Legislature that the estimated revenue loss resulting from enactment of the exemptions contained in Sections 1 and 3 of this act be offset by the repealing of other existing sales and use tax exemptions which are viewed by the Legislature as less meritorious than the exemptions contained herein. Thus, notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1246

An act to amend Sections 8251 and 8404 of, and to add Section 8249 to, the Education Code, and to amend Section 1528 of the Health and Safety Code, relating to child development services and alternative child care programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. The Legislature declares that it is necessary to design and implement a child care reimbursement system which will:

(a) Maintain fiscal accountability in the use of child care funds by the Department of Education and local child development providers.

(b) Ensure a regular, predictable cash flow to provider agencies

(c) Establish a new basis for determining reimbursements to agencies for child care services.

(d) Reduce the frequency of fiscal and attendance reporting.

(e) Provide more flexibility for parents, children, and providers in the utilization of child care facilities.

(f) Provide a more realistic basis upon which agencies can develop program budgets and make timely and reasonable program

expenditures

(g) Eliminate current burdensome and expensive hourly attendance reporting requirements

(h) Facilitate a transition to the new reimbursement system which will ensure that the provisions of this act do not result in a decrease or increase in the number of children served by local agencies, or an increase or decrease in the budgets of local agencies, exclusive of cost-of-living increases

SEC. 2. Section 8249 is added to the Education Code, to read.

8249. The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child development services pursuant to this division. No recipient of public assistance shall pay a fee nor shall the State Preschool Program charge a fee. Insofar as federal funds are utilized, this fee schedule shall conform to that allowed by the federal social service regulations as designated in the California State Plan for Social Services

The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative of the child development centers will certify children as eligible for state reimbursement pursuant to this section.

SEC. 2.5. Section 8251 of the Education Code is amended to read:

8251. The Superintendent of Public Instruction shall establish reasonable standards and maximum reimbursement rates for the delivery of specific types of child development services pursuant to Section 8211 and Chapter 2.5 (commencing with Section 8400) of this part and consistent with Section 8243 Actual reimbursement shall not, in any case, exceed actual program costs, and parent fees shall be deducted from the maximum reimbursement rate or actual costs, whichever is less.

When establishing such standards and maximum reimbursement rates the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system including standards and rates shall be submitted to the Joint Legislative Budget Committee. The Superintendent of Public Instruction shall begin implementation of the reimbursement system including standards and rates no sooner than 60 days after submission to the Joint Legislative Budget Committee. Implementation of the reimbursement system, however, shall commence no later than April 1, 1978, to go into effect July 1, 1978. Subsequent changes to the reimbursement system shall similarly be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish such regulations as he deems advisable concerning conditions of service and hours of enrollment for children in the programs.

SEC. 3. Section 8404 of the Education Code is amended to read:

8404. The Superintendent of Public Instruction shall establish reasonable standards and maximum reimbursement rates for the delivery of specific types of child care services. Actual

reimbursement shall not, in any case, exceed actual program costs, and parent fees shall be deducted from the maximum reimbursement rate or actual costs, whichever is less.

When establishing such standards and maximum reimbursement rates the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system including standards and rates shall be submitted to the Joint Legislative Budget Committee The Superintendent of Public Instruction shall begin implementation of the reimbursement system including standards and rates no sooner than 60 days after submission to the Joint Legislative Budget Committee. Implementation of the reimbursement system, however, shall commence no later than April 1, 1978, to go into effect July 1, 1978. Subsequent changes to the reimbursement system shall similarly be submitted to the Joint Legislative Budget Committee.

Maximum reimbursement rates may be waived, on a limited basis, by the Superintendent of Public Instruction for programs that demonstrate a need for increased reimbursement due to special circumstances directly related to the health and welfare of participating children.

The Superintendent of Public Instruction may authorize increased reimbursement for such programs not sooner than 30 days after notification in writing of the necessity therefor to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or not sooner than such earlier time as the chairman of said committee, or his designee, may in each instance determine.

SEC. 4. Section 1528 of the Health and Safety Code is amended to read:

1528. (a) Licensing reviews, pursuant to Sections 1534 and 1535, of care and services of a day care facility for children shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training program of the facility. Such licensing reviews shall be conducted not less than once every two years.

(b) The state department shall maintain a program to carry out the licensing and inspection activities for day care facilities for children in order that the health and safety of children receiving such services is protected. The state department shall maintain staff of adequate size and expertise to carry out the licensing and inspection program for day care facilities for children in order that the health and safety of children receiving services is protected. The state department shall license and inspect day care facilities for children in accordance with the provisions of this chapter and shall not maintain a self-certification and inspection program with respect to such facilities. Nothing in this section shall preclude the state department from contracting with other agencies for services pursuant to Section 1511 in lieu of performing services directly

(c) Review of day care facilities for children, as defined in Section

1527, shall be limited to inspection for compliance with the provisions of this chapter, and shall not include evaluations and rating scales as specified in Sections 1534, 1535, and 1536.

SEC. 6. There is hereby appropriated from the General Fund to the Department of Education for apportionment to new or existing eligible agencies for the purpose of expanding child care services pursuant to Chapter 2 (commencing with Section 8200) and Chapter 2.5 (commencing with Section 8400) of Part 6 of the Education Code, the following sums:

(a) For expenditure in fiscal year 1977–78 ..... $5,000,000

(b) For expenditure in fiscal year 1978–79 ..... $6,250,000

It is the intent of the Legislature that funding pursuant to this section shall be allocated on a priority basis to annualize programs established pursuant to Chapter 2.5 (commencing with Section 8400) of Part 6 of the Education Code.

Provided that no more than 20 percent of the funds appropriated by this section shall be allocated to agencies operated pursuant to Chapter 2 (commencing with Section 8200) of the Education Code, provided further that expenditures pursuant to Chapter 2 shall be limited to child care programs in rural areas, migrant/agricultural child care programs and infant care programs.

Provided further, that none of the funds shall be allocated to child care agencies which are required to meet the Federal Interagency Day Care Requirements.

Provided further, that notwithstanding any other provision of law, the maximum reimbursement levels for child-hour costs within a child development program, allowed pursuant to Section 8404 of the Education Code, shall be increased for the 1977–78 fiscal year to one dollar and twenty-one cents ($1.21) for children age two and over, and one dollar and forty-three cents ($1.43) for children under two years of age.

Provided further, that notwithstanding any other provision of law, the maximum reimbursement levels for child-hour costs within a child development program, allowed pursuant to Section 8380 of the Education Code, shall be increased for the 1977–78 fiscal year to one dollar and twenty-eight cents ($1.28) for children age two and over, and one dollar and fifty-three cents ($1.53) for children under two years of age.

The Superintendent of Public Instruction shall review programs on an individual basis to determine legitimate annualization needs and shall establish reasonable standards governing the allocation and use of these funds to: (1) allow sufficient time for application from new and existing child care agencies; and (2) provide for the unique costs for initiating such programs.

Funds necessary for the efficient administration of the provision shall be provided out of the appropriation made by this section upon

agreement with the Director of Finance.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide immediate funding assistance to alternative child care programs during fiscal year 1977–78, it is necessary that this act take effect immediately.

CHAPTER 1247

An act to amend Sections 33590, 41882, 41884, 41885, 41886, 41888, 56039, 56300, 56301, 56302, 56304, 56310, 56312, 56314, 56315, 56316, 56317, 56330, 56331, 56332, 56333, 56334, 56335, 56336, 56337, 56338, 56339, 56350, 56351, 56352, 56354, 56360, 56361, 56362, 56363, 56501, 56602, 56604, 56717, 59001, 59002, 59101, 59102, 59201, and 59204 of, to amend the heading of Article 4 (commencing with Section 56350) of Chapter 2, Part 30 of, to add Sections 56332.5, 56332.6, 56336.1, 56336.2, 56336.3, 56336.4, 56336.5, 56341, 56341.1, 56341.2, 56341.3, 56341.4, 56355, 56360.5, 56362.1, 56362.2, 56364, 56367, 56507, 56605, 56719, 59002.5, 59102.5, and 59204.5 to, to repeal and add Article 3 (commencing with Section 56030) of Chapter 1 of Part 30 of, and to repeal Sections 56313, 56340, 56341, 56364, 56367, 56507, 56605, and 56719 of, the Education Code, relating to special education and making an appropriation therefor.

[Approved by Governor October 1, 1977. Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 33590 of the Education Code is amended to read:

33590. There is in the state government the Advisory Commission on Special Education consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and 12 public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

Each public member shall serve at the pleasure of the appointing power.

SEC. 2. Section 41882 of the Education Code is amended to read:

41882. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education

of physically handicapped pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	*Elementary grades (K-8)*	*High school grades (9-12)*	*Community college grades (13-14)*
Physically handicapped			
Class size maximum of 3	$5,400	—	—
Class size maximum of 5	3,100	$2,965	$2,810
Class size maximum of 6	2,520	—	—
Class size maximum of 8	1,800	1,670	1,510
Class size maximum of 10	1,370	1,240	1,080
Class size maximum of 12	1,085	950	800
Class size maximum of 16	725	590	435
Class size maximum of 20	—	375	220

(d) The amounts allowed for each particular level and category pursuant to subdivision (c) shall be increased annually by 6 percent.

SEC. 3. Section 41884 of the Education Code is amended to read:

41884. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of mentally retarded pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	*Elementary grades (K-8)*	*High school grades (9-12)*	*Community college grades (13-14)*
Mentally retarded (as defined in Section 56501)			
Class size maximum of 15	$570	$440	$280
Class size maximum of 18	420	285	130

(d) The amounts allowed for each particular level and category pursuant to subdivision (c) shall be increased annually by 6 percent.

SEC. 4. Section 41885 of the Education Code is amended to read:

41885. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of severely mentally retarded pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	*Elementary grades (K-8)*	*High school grades (9-12)*	*Community college grades (13-14)*
Mentally retarded (as defined in Section 56515)			
Class size maximum of 12	$920	$785	$630

(d) The amounts allowed for each particular level and category pursuant to subdivision (c) shall be increased annually by 6 percent.

SEC. 5. Section 41886 of the Education Code is amended to read:

41886. The Superintendent of Public Instruction shall allow to each school district or county superintendent of schools for the education of educationally handicapped pupils in special classes during the current fiscal year an amount computed as follows:

(a) He shall divide the average daily attendance in each particular class size category by the maximum class size established for each particular class size category, and increase the quotient to the next highest integer where a fractional amount is produced.

(b) He shall then determine for each particular class size category the product of the amount computed under subdivision (a) multiplied by the maximum class size established by law for special day classes for the particular category.

(c) He shall then multiply the amount computed under subdivision (b) by the following amount of the particular level and category:

Category	*Elementary grades (K-8)*	*High school grades (9-12)*
Educationally handicapped		
Class size maximum of 12	$1,000	$870
Autistic		
Class size maximum of 6	$4,500	$4,315

(d) The amounts allowed for each particular level and category pursuant to subdivision (c) shall be increased annually by 6 percent.

SEC. 6. Section 41888 of the Education Code is amended to read:

41888. (1) In addition to the allowances provided under Sections 41882 to 41886, inclusive, the Superintendent of Public Instruction shall allow to school districts and county superintendents of schools for each unit of average daily attendance an amount as follows:

(a) For instruction of educationally handicapped pupils in learning disability groups, one thousand eight hundred eighty dollars ($1,880).

(b) For instruction of educationally handicapped pupils in homes or in hospitals, one thousand three hundred dollars ($1,300).

(c) For instruction of physically handicapped pupils in remedial physical education, seven hundred seventy-five dollars ($775).

(d) For remedial instruction of physically handicapped pupils in other than physical education, two thousand dollars ($2,000).

(e) For instruction of blind pupils when a reader has actually been provided to assist the pupil with his studies, or for individual instruction in mobility provided blind pupils under regulations prescribed by the State Board of Education, or when braille books are purchased, ink print materials are transcribed into braille, or sound recordings and other special supplies and equipment are purchased for blind pupils, or for individual supplemental instruction in vocational arts, business arts, or homemaking for blind pupils, nine hundred ten dollars ($910).

Braille books purchased, braille materials transcribed from ink print, sound recordings purchased or made, and special supplies and equipment purchased for blind pupils for which state or federal funds were allowed are property of the state and shall be available for use by blind pupils throughout the state as the State Board of Education shall provide.

(f) For other individual instruction of physically handicapped pupils, one thousand three hundred dollars ($1,300).

(g) For the instruction of physically handicapped pupils in regular day classes, one thousand eighteen dollars ($1,018).

(h) For the instruction of mentally retarded pupils in regular day classes, one thousand eighteen dollars ($1,018).

(i) For the instruction of educationally handicapped pupils in

regular day classes, one thousand eighteen dollars ($1,018).

(j) In lieu of benefits provided under subdivision (d) of Section 41888, there shall be allowed for the individualized remedial instruction of speech handicapped pupils by specially trained noncredentialed teaching assistants under the direct guidance of a speech therapist, one thousand eighteen dollars ($1,018).

(2) (a) The allowances provided under Sections 41882 to 41886, inclusive, may be increased proportionately on account of special day classes convened, or other instruction provided a pupil, for days in a school year which are in excess of the number of days in the school year on which the regular day schools of a district are convened. The average daily attendance of pupils enrolled for such excess days shall be credited to the school district in the fiscal year in which the last day of such excess days falls.

(b) The Superintendent of Public Instruction shall compute for each applicant school district and county superintendent of schools in providing in such year a program of specialized consultation to teachers, counselors and supervisors for educationally handicapped pupils, an amount equal to the product of ten dollars ($10) and the average daily attendance of pupils enrolled in special day classes, learning disability groups, and home and hospital instruction for educationally handicapped pupils.

(3) The amounts allowed pursuant to this section shall be increased annually by 6 percent.

SEC. 7. Article 3 (commencing with Section 56030) of Chapter 1 of Part 30 of the Education Code is repealed.

SEC. 8. Article 3 (commencing with Section 56030) is added to Chapter 1 of Part 30 of the Education Code, to read:

Article 3. Education for Exceptional Children in Nonpublic Schools

56030. It is the intent and purpose of the Legislature in enacting this article to provide special educational facilities and services to exceptional children who, because the school district or county superintendent of schools of the county in which they reside has no appropriate special education facilities and services or they cannot meet the requirements of the individualized education program, or because the State of California has no facilities to educate them, are unserved by this state's school system or by state institutions or agencies. It is the further intent and purpose of the Legislature to provide the Department of Education with broad administrative discretion, consistent with the needs of exceptional children and the intent of this article, in carrying out its responsibilities under this article. The Superintendent of Public Instruction may adopt rules and regulations consistent with this article which he deems necessary for the effective administration thereof.

56031. As used in this article:

(a) "Private school" means a private nonsectarian school, institu-

tion, or agency which meets standards prescribed by the State Board of Education. However, "private school" does not include a regularly established nonprofit, tax-exempt licensed children's institution.

(b) "Parent," as used in this article, includes any person having legal custody of the child. "Parent," in addition, includes any adult pupil for whom no guardian has been appointed and the person having custody of a minor if neither the parent or legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate.

(c) "Local school district" means the district of residence of the pupil.

(d) "Day" means a calendar day unless otherwise specified.

(e) "Appropriate educational placement" means the school placement that can implement the individualized education program of the pupil.

(f) "The individualized education program" means the pupil's educational plan developed in accordance with standards established by the State Board of Education.

(g) "Special education services and facilities" means those services and facilities specified in the pupil's individualized education program. Such services shall include room and board and transportation services if such services are specified in the individualized education program.

(h) An "individual with exceptional needs" means a handicapped pupil or child who is eligible for one or more of the programs authorized by the following sections:

(1) Educationally handicapped as authorized by Section 56600.

(2) Autistic as authorized by Section 56601.

(3) Educable mentally retarded as authorized by Sections 56500 and 56501.

(4) Severely mentally retarded as authorized by Sections 56500 and 56515.

(5) Physically handicapped as authorized by Section 56701.

(i) "County superintendent" means the county superintendent of schools.

(j) The "contract" means the legal document which is binding upon the school district and the private school. The contract shall be in a standard form made available through the Department of Education.

(k) "Certification" means the procedure whereby the private school is evaluated to determine its ability to provide special education services consistent with the needs of individuals with exceptional needs under a procedure established by the State Board of Education.

56032. A local school district may contract with a private school to provide those special education and related services specified in a pupil's individualized education program, pursuant to the provisions of this article.

56033. Pupils placed under the provisions of this article shall be

provided a publicly supported education at no cost to the parent.

56034. (a) The contract shall specify the administrative and financial agreements between the nonpublic school and the school district to provide the services included in the pupil's individualized educational program. The contract may allow for partial or full-time attendance at the nonpublic school.

(b) The contract shall be negotiated for the length of time for which nonpublic school services are specified in the pupil's individualized educational program.

Changes in the educational services or placement provided under the contract may only be made on the basis of revisions to the pupil's individualized educational program. At any time during the term of the contract, the parent, nonpublic school, or school district may request a review of the pupil's individualized educational program.

Changes in the administrative or financial agreements of the contract which do not alter the educational services or placement may be made at any time during the term of the contract, as mutually agreed by the nonpublic school and the school district.

(c) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

56035. If the pupil is enrolled in the private school with the approval of the local school district and the private school prior to agreement to a contract, the local school district shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 calendar days during which time the contract shall be consummated. If after 60 calendar days, the contract has not been finalized as prescribed by subdivision (a) of Section 56034, either party may appeal to the county superintendent to negotiate a contract. Within 30 calendar days of receipt of this appeal, the county superintendent shall develop a contract which shall be binding upon both parties. The costs for such a service shall be reimbursed to the county superintendent by the local school district.

56036. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the native language or other mode of communication of the parent;

(2) The right of the parent to initiate an assessment of his or her

child within a specified period of time;

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted;

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private.

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program; and,

(6) Procedural due process by a fair and impartial administrative hearing before a fair hearing panel, including as part of the fair and impartial hearing process, the right of the parent to be fully informed of available, free appropriate alternatives, both public and private, and to have the opportunity to visit and compare the available alternative programs.

(b) Regulations providing such due process protections shall be adopted by the State Board of Education.

56037. In the event that completion of the appeals procedures provided as part of due process protections results in the parent's appeal being denied, the parent may petition the appropriate superior court for a writ of mandate. If a writ of mandate is issued ordering the placement in a private school of the pupil, the school district shall be liable to the parent for reasonable attorney fees and all other court costs.

56038. The local school district having any pupil receiving the benefits of special education facilities and services under the provisions of Section 56032 shall report the attendance of such pupil and submit a claim for the special purpose apportionment through the county superintendent of schools to the Superintendent of Public Instruction. The report and claim shall be submitted at the time and in the manner prescribed by the Superintendent of Public Instruction. The county superintendent of schools shall verify the attendance reported and claim submitted in the manner prescribed by the Superintendent of Public Instruction.

56039. Upon the county superintendent of schools' verification of attendance reported and the claim submitted on behalf of a pupil attending a private school under this article, the Superintendent of Public Instruction shall apportion to the local school district submitting the report and the claim, an amount computed as follows:

(a) The claim shall equal the amount paid by the school district to the private school under a contract pursuant to Section 56032;

(b) The claim shall be reduced by the applicable federal aid and the revenue limit amount of the district that will be earned by the pupil or pupils;

(c) The amount calculated in paragraph (b) shall be reduced by 30 percent.

56040. No claim under this article shall be satisfied by the Superintendent of Public Instruction for the services authorized by Section

56032 unless the private school which the pupil attends meets the educational standards established by the State Board of Education pursuant to Section 56041.

56041. The private school shall be certified as meeting standards adopted by the State Board of Education relating to the required special education services and facilities for individuals with exceptional needs. The certification shall be for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the State Board of Education. The private school shall be charged a sum to cover part of the cost for this certification. In addition to those standards adopted by the State Board of Education, the private school shall meet all applicable standards relating to fire, health, sanitation, and building safety.

56042. The local school district may petition the Superintendent of Public Instruction to waive one or more of the requirements under Section 56041. The petition shall state the reasons for the request with necessary documentation to demonstrate that the pupil would become unserved or inadequately served if the waiver were not granted.

SEC. 8.5. Section 56039 of the Education Code is amended to read:

56039. A county superintendent of schools or a parent or guardian of a handicapped pupil who is authorized to receive services under this article may submit a written request to the Superintendent of Public Instruction for a waiver of the maximum class size requirements of Sections 56603, 56703, 56512, and 56517, subject to the condition that the only appropriate placement for the pupil is in a class offered by a private nonsectarian school which exceeds the maximum class size requirements. Once the request is received, the Superintendent of Public Instruction, after due consideration, may grant the request if he determines that no other educational placement that is reasonable is appropriate.

The request shall fully explain the justification for such waiver and may be granted only for the current school year in which it is submitted.

In the case of handicapped pupils who were enrolled in private nonsectarian schools during the 1976–77 school year, the Superintendent of Public Instruction may grant a retroactive waiver of the maximum class size requirements commencing with the fall term of that year for the purpose of making tuition payments which otherwise would have been authorized by this article if this section had been in effect.

SEC. 9. Section 56300 of the Education Code is amended to read:

56300. The Legislature finds and declares that the current range of educational programs for individuals with exceptional needs has developed over time in response to the specific needs of identifiable groups. These programs were established without particular regard to gradations in the severity of disabilities among individuals with

exceptional needs and tend to segregate them on the basis of their disabilities. Many individuals with exceptional needs are not served by any existing program with the result that they are either inappropriately placed in a program or they are excluded from receiving any educational program or service. Moreover, some existing programs for individuals with exceptional needs are statutorily permissive so that some who would otherwise be eligible do not have access to such programs.

SEC. 10. Section 56301 of the Education Code is amended to read:

56301. The Legislature finds and declares that all individuals with exceptional needs have a right to participate in appropriate programs of publicly supported education and that special educational programs and services for these persons are needed in order to assure them of this right to an appropriate educational opportunity.

Furthermore, it is the intent of the Legislature that the comprehensive restructuring of current educational programs for individuals with exceptional needs required by this chapter should be systematically phased in.

Therefore, the Legislature hereby authorizes the Superintendent of Public Instruction to implement and administer, under a master plan adopted by the State Board of Education, a program to better meet the educational requirements of individuals with exceptional needs. It is the intent of the Legislature that this program shall provide an educational opportunity for individuals with exceptional needs which is equal to or better than that provided prior to the implementation of programs under this chapter. This program shall provide that:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of secondary education programs.

(b) Early educational opportunities are available to all children between the ages of three and four years and nine months who require intensive service in special programs.

(c) At the discretion of responsible local agencies, early educational opportunities may be made available to children younger than three years of age who require intensive service in special programs and their parents.

(d) Each individual with exceptional needs shall have his or her educational goals and objectives specified in a written individualized education program.

(e) Education programs are provided under an approved plan for special education which comprehensively sets forth the elements of the programs in accordance with the provisions of this chapter. This comprehensive plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communications.

(f) Individuals with exceptional needs are offered special assist-

ance in a program which promotes maximum interaction with the general school population in a manner which is appropriate to the needs of both.

(g) Pupils be transferred out of special education programs when special education services are no longer needed.

(h) The unnecessary use of labels is avoided in providing programs for individuals with exceptional needs.

(i) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. Such procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with non-English-speaking and limited-English-speaking pupils as defined in subdivisions (d) and (e) of Section 52163, shall be in the individual's primary language.

(j) Educational programs are coordinated with other public and private agencies, including regional occupation centers and programs and postsecondary and adult programs for individuals with exceptional needs.

(k) Each school site shall have access to psychological and health services for individuals with exceptional needs.

(*l*) Continuous evaluation of the effectiveness of these special education programs by the responsible local agency shall be made to insure the highest quality educational offerings.

SEC. 11. Section 56302 of the Education Code is amended to read:

56302. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the State Board of Education.

(b) "Department" means the Department of Education.

(c) "Individuals with exceptional needs" means all pupils whose special education needs cannot be met by the regular classroom teacher with modification of the regular school program, who require the benefit of special education and services, and who are one of the following:

(1) Younger than three years of age who have been identified by the educational assessment service as defined by subdivision (b) of Section 56336.2 as requiring intensive special education and services as defined by the board.

(2) Between the ages of three years and four years and nine months, inclusive, who have been identified by the educational assessment service as defined by subdivision (b) of Section 56336.2 as requiring intensive special education and services as defined by the board.

(3) Between the ages of four years and nine months and 18 years, inclusive.

(4) Between the ages of 19 and 21, inclusive, who were enrolled in or eligible for a program under this chapter or other special educa-

tion program prior to their 19th birthday and who have not yet completed their prescribed education program. Any such pupil who becomes 22 years of age while participating in a program under this chapter may continue his or her participation in the program for the remainder of the then current school year.

Although non-English-speaking pupils may be appropriately identified as individuals with exceptional needs requiring services under this chapter, this definition does not include persons whose educational needs are due primarily to unfamiliarity with the English language or to cultural differences.

(d) "Local comprehensive plan" means a plan which meets the requirements of Article 3 (commencing with Section 56330) of this chapter and which is submitted by a responsible local agency.

(e) "Parent" as used in this chapter includes any person having legal custody of a child. "Parent" in addition, includes any adult pupil for whom no guardian has been appointed and the person having custody of a minor if neither the parent or legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate. "Parent surrogate" shall include regularly established nonprofit tax-exempt, licensed children's institutions when the parents of the child in such an institution are not known or are unavailable, or when the child is a ward of the state.

(f) "Responsible local agency" means the school district or office of the county superintendent of schools designated in the local comprehensive plan as the agency whose duties shall include, but are not to be limited to, receiving and distributing funds pursuant to the local comprehensive plan, providing for administrative support and coordinating the administration of the plan.

(g) "Special education" means programs or services specially designed to meet the educational requirements of individuals with exceptional needs. Programs for the communicatively handicapped serve those pupils with disabilities in one or more of the communication skills such as language, speech, and hearing. Programs for the physically handicapped serve those pupils with physical disabilities such as vision, including disabilities within the function of vision resulting in visual perceptual or visual motor dysfunction, and mobility impairments and orthopedic or other health impairments. Programs for the learning handicapped serve pupils with significant disabilities in learning or behavior such as learning disabilities, including disabilities resulting from visual perceptual disorders and visual motor disorders, behavior disorders, and educational retardation. Programs for the severely handicapped serve pupils with profound disabilities and who require intensive instruction and training such as the developmentally disabled, trainable mentally retarded, autistic, and seriously emotionally disturbed. It is the intent of the Legislature in this definition to provide general classifications of special education programs. The Legislature also recognizes that a pupil may appropriately require services from more than one classification of program and that the examples given for each classification

do not imply that such pupils can be grouped in a class or program without regard to the individual educational needs of the pupils served.

(h) "Superintendent" means the Superintendent of Public Instruction.

SEC. 12. Section 56304 of the Education Code is amended to read:

56304. Every individual with exceptional needs, as defined pursuant to Section 56302, who is eligible to receive such educational services authorized under this chapter is entitled to educational programs or services free of charge to his or her parents.

SEC. 13. Section 56310 of the Education Code is amended to read:

56310. The State Board of Education shall:

(a) Establish and periodically update the California Master Plan for Special Education.

(b) Adopt rules and regulations necessary for the efficient administration of this chapter.

(c) Adopt criteria and procedures for the review and approval by the board of local comprehensive plans submitted under Sections 56314 and 56315. Local comprehensive plans may be approved for up to three years.

(d) Provide review, upon petition, to any responsible local agency that appeals a decision made by the department which affects the agency's providing services under this chapter.

(e) Review and approve a program evaluation plan for special education programs provided by this chapter in accordance with Article 4 (commencing with Section 56350).

(f) Recommend to the Commission for Teacher Preparation and Licensing standards for the certification of professional personnel for special education programs conducted pursuant to this chapter.

(g) Adopt standards for the use of substitute teachers.

(h) By January 1, 1979, adopt regulations to provide specific criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(i) By July 1, 1979, adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. Such guidelines shall be developed to aid teachers and parents in assessing an individual pupil's education program and the appropriateness of the special education services.

(j) In accordance with the requirements of federal law, adopt standards for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

SEC. 14. Section 56312 of the Education Code is amended to read:

56312. The superintendent shall administer the provisions of this chapter and shall:

(a) Grant approval of the organization of the local comprehensive plans within each county.

(b) Establish guidelines for the development of local comprehensive plans, including a standard format for local comprehensive

plans, and provide assistance in the development of local comprehensive plans. The purposes of such guidelines and assistance shall be to help local agencies benefit from the experience of other local agencies implement programs under this chapter, including, but not limited to, reducing paperwork, increasing parental involvement, and providing effective staff development activities. To the extent possible, all forms, reports, and evaluations shall be designed to satisfy simultaneously state and federal requirements.

(c) Review and recommend to the board for approval, local comprehensive plans developed and submitted in accordance with this chapter.

(d) Promote innovation and improvement in the field of special education at the school, district, county, and state levels.

(e) Monitor the implementation of local comprehensive plans by periodically conducting onsite program and fiscal reviews.

(f) Encourage the maximum practicable involvement of parents of children enrolled in special education programs.

(g) Make recommendations in the areas of staff development, curriculum, testing and multicultural assessment, and the development of materials for special education programs.

(h) Prepare for board approval as necessary, any state plan required by federal law in order that this state may qualify for any federal funds available for the education of individuals with exceptional needs.

(i) Maintain the state special schools in accordance with Part 32 (commencing with Section 59000) of this division and Part 43 (commencing with Section 70000) of Division 6 of Title 3 so that the services of such schools are coordinated with the services of responsible local agencies.

(j) Develop in accordance with Sections 33401 and 56351 an annual program evaluation plan and report of special education programs authorized under this chapter for submission to the board.

(k) Apportion funds in accordance with Article 5 (commencing with Section 56360) of this chapter and approved local comprehensive plans.

(*l*) Assist districts and counties in the improvement and evaluation of their programs.

(m) Provide review to any parent, as specified in Section 56341.4.

SEC. 15. Section 56313 of the Education Code is repealed.

SEC. 16. Section 56314 of the Education Code is amended to read:

56314. The county superintendent of schools shall:

(a) Submit to the superintendent, before January 1979, a description of how districts within the county intend to develop local comprehensive plans, together with his or her comments thereon.

(b) Coordinate the development of local comprehensive plans in the county to insure that special education services are provided to all individuals with exceptional needs.

(c) Within 45 calendar days, approve or disapprove any proposed

local comprehensive plan submitted by a district within the county on the basis of insuring that special education services are provided to all individuals with exceptional needs in the county.

If approved, the county superintendent shall submit the plan with his or her comments and recommendations to the superintendent.

If disapproved, the county superintendent shall return the plan with his or her comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county superintendent's disapproval. The superintendent shall make a decision on such an appeal within 30 calendar days of receipt of the appeal.

A local comprehensive plan may not be submitted to the superintendent without approval of the plan by the county superintendent or a decision by the Superintendent of Public Instruction to overrule the disapproval of the county superintendent.

(d) Participate in the state onsite review of the district's implementation of an approved local comprehensive plan.

(e) With the approval of the county board of education, join with the districts in the county, except for the districts submitting a district-prepared local comprehensive plan in accordance with subdivisions (a) and (b) of Section 56315, to submit to the superintendent a local comprehensive plan, pursuant to subdivision (c) of Section 56315, for the education of individuals with exceptional needs. Any such plan may include more than one county and districts in more than one county.

(f) Carry out any responsibility assigned to him or her pursuant to a local comprehensive plan.

SEC. 17. Section 56315 of the Education Code is amended to read:

56315. The governing board of a school district shall, to the extent that state and federal funds are available therefor, elect to do one of the following:

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent, in accordance with Section 56330, a local comprehensive plan for the education of all individuals with exceptional needs residing in the district.

(b) In conjunction with one or more other districts, submit to the superintendent, in accordance with Section 56330, a local comprehensive plan for the education of all individuals with exceptional needs residing in such districts. Such plan shall designate one of the participating districts as the responsible local agency whose duties shall include, but not be limited to, to receive and distribute funds pursuant to the local comprehensive plan, provide for administrative support and coordinate the administration of the plan. Any participating district may perform any of the services required by the plan. The superintendent may waive the requirement for one plan to serve all individuals with exceptional needs residing in a district when a secondary or elementary district of sufficient size and scope requests to submit its own plan and the

coterminous elementary or secondary districts agree to submit a plan or plans which include articulation of pupils and services.

(c) Join with the office of a county superintendent of schools to submit to the superintendent, in accordance with subdivision (e) of Section 56314 and Section 56330, a local comprehensive plan for the education of all individuals with exceptional needs residing in the district. Such plan may provide that the county superintendent or the district perform some of the educational services required by the plan.

(d) If funding for statewide implementation of programs under this chapter is not appropriated by the Legislature, school districts and county superintendents of education that are in compliance with Public Law 94-142 may continue to operate special education programs authorized by Part 30 (commencing with Section 56000) excluding programs authorized under Chapter 2 (commencing with Section 56300) of Part 30.

SEC. 18. Section 56316 of the Education Code is amended to read:

56316. In developing a local comprehensive plan under Section 56315, each district shall:

(a) Cooperate with the office of the county superintendent of schools and other school districts in the geographic area in planning its option under Section 56315 and notify the office of the county superintendent of schools of its intent before September 1, 1978.

(b) Cooperate with the office of the county superintendent of schools to assure that the plan is compatible with other local comprehensive plans in the county and any county plan of a contiguous county.

(c) Submit to the office of the county superintendent of schools for review any plan developed under subdivision (a) or (b) of Section 56315.

SEC. 19. Section 56317 of the Education Code is amended to read:

56317. Any county superintendent of schools with the approval of the county board of education or governing board of a school district shall have authority over the programs they directly maintain, consistent with the responsibilities assigned to it in a local comprehensive plan, and the policies set forth by the superintendents who comprise the responsible local agency as specified in subdivision (p) of Section 56330. Such county superintendent of schools or governing board of a school district may provide for the education of individual pupils in special education programs maintained by other districts or counties, and may include within their special education programs pupils who reside in other districts or counties. Section 46600 shall apply to interdistrict attendance agreements for programs conducted pursuant to this chapter.

SEC. 20. Section 56330 of the Education Code is amended to read:

56330. Any local comprehensive plan submitted under this chapter shall:

(a) Provide for seeking out all individuals with exceptional needs ages 0 through 21 years residing in the area served by the plan, including preschool and other children not enrolled in school programs.

(b) Provide for the identification and assessment of an individual's exceptional needs, and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Assessment procedures shall include provisions for educational assessment, psychoeducational assessment, and health assessment, as appropriate. Such procedures shall include provisions for the assessment of the individual's development in language, cognitive, affective, sensory, and sensory motor functioning.

(c) Provide for differential grouping of individuals according to their identified needs.

(d) Describe how each of the components set forth in Section 56332 will be made available to meet the needs of all individuals with exceptional needs ages 3 through 21 who are or may be identified.

(e) Describe how psychological and health services will be provided including, but not limited to, identification of handicapping conditions, evaluation of pupil needs and progress, pupil counseling, staff development and consultation to parents, teachers, and other school staff regarding individuals with exceptional needs.

(f) Provide opportunities for physical education.

(g) Describe provisions for a comprehensive program for individualized career and vocational development, with emphasis on vocational training at the secondary level.

(h) Set forth program objectives in terms of pupil performance.

(i) Describe the personnel responsible and the procedure to be followed in assuring that each pupil's individualized education program is being implemented. Such procedures shall include a process for a teacher to obtain a special review of the appropriateness of the placement of an individual with exceptional needs in his or her class. Such procedures shall also include, but not be limited to, a description of when such special reviews may be requested, what personnel will provide such special reviews, and a timetable for completion of a special review.

(j) Describe the plan to provide assistance at the school site level to insure that special programs which promote interaction with the general school population are implemented in a manner which is appropriate to both individuals with exceptional needs and the general school population. Such plan shall include procedures for assisting nonspecial education pupils understand and accept individuals with exceptional needs who are transferred into their class.

(k) Include a state program evaluation component and procedures as set forth in Article 4 (commencing with Section 56350)

of this chapter, and a local program evaluation component which shall provide for the annual evaluation of the program. Regular and special education teachers, administrators, other school staff, and parents shall participate in the local program evaluation process.

(*l*) Specify the number and responsibilities of program specialists required as described in Section 56335. The number of program specialists provided in the local comprehensive plan shall equal at least one per every 560 individuals with exceptional needs served under the comprehensive plan.

(m) Provide for curriculum development.

(n) Provide for ongoing staff development for regular and special education teachers, administrators, and other certificated, classified, and volunteer staff, in accordance with Section 56332.5.

(o) Provide for appropriate qualified staff to fulfill the responsibilities of the plan consistent with the credentialing requirements of this code, including positive efforts to employ qualified handicapped individuals.

(p) Designate a responsible local agency as the agent of the parties to coordinate the administration of the plan and specify, for multidistrict plans, how each superintendent of each participating district shall be involved in the policymaking process.

(q) For multidistrict plans, specify how any district administrators of special education shall function in the coordination of the administration of the local comprehensive plan.

(r) Establish a community advisory committee to the responsible local agency. The individual members of the community advisory committee shall be appointed by and responsible to the school district and county governing board or boards participating in the local comprehensive plan, in accordance with a locally determined selection procedure which must be described in the local comprehensive plan. The community advisory committee shall be composed of parents of individuals with exceptional needs enrolled in public or private, nonsectarian schools, other parents of pupils enrolled in school, individuals with exceptional needs enrolled in special education programs, regular classroom teachers, special education teachers and other school personnel, representatives of other public and private agencies, and persons concerned with the needs of individuals with exceptional needs. At least the majority of such committee shall be composed of parents of pupils enrolled in schools located within the geographic area of the responsible local agency, and at least a majority of the parents shall be parents of individuals with exceptional needs. The community advisory committee shall have such authority and fulfill such responsibilities as are defined for it in the local comprehensive plan. Such responsibilities shall include, but need not be limited to: advising the administration of the responsible local agency, and the policy body in subdivision (p) regarding the development of the local comprehensive plan and the review of programs under such plan; making recommendations on annual priorities to be addressed under

the plan; assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan; encouraging public involvement in the development and review of the local comprehensive plan; and acting in support of individuals with exceptional needs.

(s) Describe the procedures for notifying parents of the steps in the assessment procedures pursuant to Section 56337.

(t) Provide for review of decisions as provided in Sections 56340 and 56341.

(u) Describe how and to what degree the district or county intends to make use of the services offered by the state special schools and how pupils eligible for such services will be identified and referred to such schools.

(v) Provide for ongoing program review by the responsible local agency of programs and procedures conducted under the local comprehensive plan.

(w) Include, as part of the local comprehensive plan and budget, maximum use of all existing local, state, and federal resources that are available to individuals with exceptional needs.

SEC. 21. Section 56331 of the Education Code is amended to read:

56331. Any plan submitted or approved under this chapter may include a preschool component for individuals with exceptional needs who are below the age of three but whose need for services under this chapter meets standards set by the board.

SEC. 22. Section 56332 of the Education Code is amended to read:

56332. In addition to the general requirements of Section 56330, each local comprehensive plan submitted for approval under this chapter shall also include the following program components:

(a) Instructional components:

(1) Special classes and centers which enroll pupils with similar and more intensive educational needs. Such classes and centers shall enroll such pupils when the nature or severity of the disability is such that a less restrictive environment cannot be achieved satisfactorily and shall facilitate their interaction with other pupils in the regular school program. Special classes and centers shall meet standards as set forth by the board, including standards for appropriate class size. Such standards shall be adopted by July 1, 1978.

(2) A resource specialist program, as described in Section 56333.

(3) Designated instruction and services not normally provided in a regular or special class or by the resource specialist program. Designated instruction and services shall meet standards as set forth by the board. These services may include, but are not limited to: language and speech development and remediation; audiological services; mobility instruction; instruction in the home and hospital; adaptive physical education; physical and occupational therapy not provided pursuant to Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code; vision services and therapy; specialized driver training instruction; counseling and guidance; psychological counseling; parent

education; health-nursing services.

(4) Nonpublic, nonsectarian school services, including services by public and private agencies, provided under contract with the responsible local agency when such services can more appropriately meet the needs of the pupil. Pupils enrolled in nonpublic schools under this subdivision shall be deemed to be enrolled in public schools for all purposes related to making apportionments and allowances from Section A of the State School Fund and Section 42238. The responsible local agency shall be eligible to receive allowances under subdivisions (c) through (h) of Section 56360 for services that are provided to individuals with exceptional needs pursuant to the contract. The responsible local agency or school district shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(b) Supportive components:

(1) Identification, assessment, and instructional planning as described in Sections 56335 to 56337, inclusive.

(2) Management and support services including program evaluation and staff development programs as defined by the board.

(3) Special transportation services. This includes transportation in special vehicles, transportation for pupils not attending school of residence, transportation to work stations and work-training programs, and providing room and board in lieu of transportation.

(4) Capital outlay to provide equipment and adequate, safe facilities for special education programs, upon the enactment of legislation effecting the intent of the Legislature which is expressed in Section 56361.

SEC. 22.5. Section 56332.5 is added to the Education Code, to read:

56332.5. Staff development programs provided as part of a local comprehensive plan shall be coordinated with other staff development programs in the geographic area of the plan, including school level staff development programs authorized by state and federal law. Staff development programs provided under this chapter shall:

(a) Provide opportunities for all school personnel, paraprofessionals and volunteers to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs.

(b) Be designed and implemented by classroom teachers and other participating school personnel, including the school principal. Teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel to be established pursuant to this article.

(c) Allow for diversity in development activities, including but not limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools.

(d) Be conducted during time which is set aside for such purpose on a continuing basis throughout the school year, including, but not limited to, time when participating school personnel are released from their regular duties.

(e) Be evaluated and modified on a continuing basis by participating school personnel with the aid of outside personnel as necessary.

(f) Include the school principal and other administrative personnel as active participants in one or more staff development activities implemented pursuant to this article.

SEC. 23. Section 56332.6 is added to the Education Code, to read:

56332.6. Any responsible local agency may request, as part of its local comprehensive plan, to receive its full average daily attendance apportionment during the regular school year to conduct staff development programs under Section 56332.5. Such time shall not exceed two days each year for each participating staff member.

No school shall receive average daily attendance reimbursement under this section if such school receives reimbursement under Chapter 1147 of the Statutes of 1972, Chapter 6 (commencing with Section 52000) of Part 28 or Chapter 3.1 (commencing with Section 44670) of Part 25.

SEC. 23.5. Section 56333 of the Education Code is amended to read:

56333. The resource specialist program shall provide for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in a written individualized education program developed by the school appraisal team or the educational assessment service and who are assigned to regular classroom teachers for a majority of a schoolday.

The program shall also:

(a) Provide information and assistance to individuals with exceptional needs and their parents.

(b) Provide consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(c) Coordinate the special education services provided each individual with exceptional needs served through the resource specialist program.

(d) Assess pupil progress on a regular basis, revise individualized education programs as appropriate, and refer pupils who do not indicate appropriate progress to the educational assessment service.

SEC. 24. Section 56334 of the Education Code is amended to read:

56334. (a) The resource specialist program described in Section 56333 shall be under the direction of a resource specialist who is a credentialed special education teacher, who has had three or more years of full-time teaching experience, and who has completed or is enrolled in an advanced preparation program in special education.

(b) Caseloads for resource specialists shall be stated in the local comprehensive plan under standards established by the board.

(c) Each resource specialist shall be provided with one or more instructional aides.

(d) Resource specialists shall not be assigned to teach regular classrooms nor have any specific pupils assigned to them for a majority of a schoolday.

SEC. 25. Section 56335 of the Education Code is amended to read:

56335. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized in-depth knowledge in at least one of the following areas: communicatively handicapped, physically handicapped, learning handicapped, severely handicapped pupils, preschool handicapped, or career-vocational development.

(b) The program specialist shall observe, consult with and assist resource specialists, designated instruction and services instructors, and special class teachers and shall plan programs, coordinate curricular resources and assess program effectiveness in, the programs for individuals with exceptional needs. The program specialist shall also participate in each school's staff development, research, program development and innovation of special methods and approaches.

(c) A program specialist shall provide coordination, consultation and program development primarily in the one specialized area in subdivision (a) of his or her expertise and shall have responsibilities to assure that pupils have full educational opportunity regardless of district of residence in the responsible local agency.

SEC. 26. Section 56336 of the Education Code is amended to read:

56336. In addition to the requirements set forth in Sections 56330 and 56332, each local comprehensive plan shall identify the personnel responsible for the operational management of identification, assessment, and instructional planning. The plan shall also include at least the following provisions for identification, assessment, and instructional planning:

(a) Procedures for consultation, information review and analysis, observation, screening and such other procedures that lead to a formal referral for special education and services.

(b) Procedures for reviewing each formal referral for special education and services and developing an assessment plan.

(c) Procedures for parental participation and informed consent for assessment.

(d) Procedures and personnel for functional assessment of the pupil according to the nature and extent of the disability and under standards established by the board.

(e) Procedures and personnel responsible for determining the relationships between the assessment findings and the pupil's needs for special education and services.

(f) Procedures for informing parents of the availability under this

chapter of free appropriate special education services, both public and private.

(g) Procedures for developing an individualized education program, including parental participation and informed consent.

(h) Procedures for reviewing the individualized education programs for pupils transferring or returning to the responsible local agency.

SEC. 27. Section 56336.1 is added to the Education Code, to read:

56336.1. Each local comprehensive plan shall also include procedures for a team review and decisions on eligibility, individualized education program and placement. A team shall meet whenever (1) a pupil has received a formal assessment, (2) the pupil's placement or program, as defined in subdivision (a) of Section 56336.5, is to be initiated, changed, or terminated, (3) the pupil demonstrates a lack of anticipated progress, (4) the parent requests a meeting or assessment, or (5) at least annually to review the pupil's progress and individualized education program.

SEC. 28. Section 56336.2 is added to the Education Code, to read:

56336.2. Each local comprehensive plan shall provide for at least two levels of teams for review and decisions on eligibility, individualized education program and placement. These two levels shall be a school site level, called the school appraisal team, and a regional level, called the education assessment service team.

(a) School appraisal team. The minimum membership of the school appraisal team for purposes of review and decisions on eligibility, individualized education program and placement for any pupil shall be: (1) the school principal or his or her administrative or supervisory designee; (2) the special education teacher or teachers or specialist or specialists most appropriate to the needs of the pupil and; (3) the parent, at the option of the parent, or a representative selected by the parent, or both, or, if neither the parent or a representative agree to attend, a pupil services worker of the district or responsible local agency who is not supervised primarily by the school principal, such member to serve as a child advocate.

In addition to the required minimum membership, the following shall participate as indicated: (1) a regular teacher of the pupil whenever the pupil may be transferred into a regular class from a special class or center, nonpublic school, or special school, and services by the regular teacher may be included as part of the pupil's individualized education program; (2) the special education specialist, school psychologist, school nurse, school social worker, counselor, or other pupil services worker who has conducted an assessment of the pupil, whenever the results or recommendations based on such an assessment are significant to the development of the pupil's individualized education program and placement; (3) the pupil, whenever the pupil is capable of benefiting from the discussion, and; (4) any other person whose competence is needed due to the nature and extent of the pupil's disability.

The school appraisal team shall determine the content of the individualized education program and make placement recommendations for the resource specialist program and designated instruction and services provided in the school. The school appraisal team may, under regulations adopted by the board, also determine the content of the individualized education program and make placement recommendations for pupils from that school who require instruction at home or in a hospital for a short-term physical disability.

(b) Educational assessment service. The educational assessment service shall consist of professional specialists representing health services, psychology, social work, speech, language, hearing, and special education, who shall conduct assessments as appropriate and participate in the development of the individualized education program and make recommendations for placement of pupils referred to the education assessment service.

The minimum membership of an educational assessment service team for purposes of review and decisions on eligibility, individualized education program, and placement for any pupil shall be: (1) a program specialist or special education administrator appropriate to the needs of the pupil; (2) the special education teacher or teachers or specialist or specialists most appropriate to the needs of the pupil; (3) professional member or members of the educational assessment service who has personally assessed the pupil, whenever the results or recommendations based on such an assessment are significant to the development of the pupil's individualized education program and placement, and; (4) the parent, at the option of the parent, or a representative selected by the parent, or both, or, if neither the parent or a representative agree to attend, a pupil services worker of the district or responsible local agency, such member to serve as a child advocate.

In addition to the required minimum membership of the team, the following shall participate as indicated: (1) the regular teacher of the pupil whenever the pupil may be transferred into a regular class from a special class or center, nonpublic school, or special school, and services by the regular teacher may be included as part of the pupil's individual education program; (2) the teacher who referred the pupil whenever such teacher has special knowledge of the pupil which is necessary to the development of an individualized education program for the pupil; (3) the pupil whenever the pupil is capable of benefiting from the discussion; (4) a representative of the nonpublic school whenever the pupil is receiving nonpublic school services, and; (5) any other person whose competence is needed due to the nature and extent of the pupil's disability.

For each pupil whose individualized education program is being determined by an educational assessment service team, a psychological and health assessment of that pupil shall have been conducted.

The educational assessment service team shall determine the

content of the individualized education program and make placement recommendations for pupils who attend special classes or centers and for any pupil who will attend a school or program other than the pupil's normal school of attendance, except for pupils at home or in a hospital for a short-term physical disability, and for any pupil who requires a more intensive study.

SEC. 29. Section 56336.3 is added to the Education Code, to read:

56336.3. (a) The local comprehensive plan shall include procedures to assure that continuous assessment of each pupil's progress is maintained and that periodic review of such progress is made. The plan shall provide for no less than an annual comprehensive review of the progress and revision of the individualized education program for each pupil by the school appraisal team or educational assessment service. The plan shall include procedures for compliance with subdivision (i) of Section 56301.

(b) Any pupil who has not clearly demonstrated progress shall be referred for a more intensive assessment specified in subdivision (d) of Section 56336 and revisions or modifications shall be made in the pupil's individualized education plan. Pupils placed in a resource specialist program by a school appraisal team for more than one year shall receive at least health and psychological screening at sometime during the second year to determine if a further health assessment or psychological assessment, or both, are necessary.

(c) The responsible local agency shall annually notify parents of their right to request a review by the educational assessment service whenever the parent believes the pupil is not making appropriate progress.

SEC. 30. Section 56336.4 is added to the Education Code, to read:

56336.4. The local comprehensive plan shall include a procedure to refer pupils, as appropriate, for further assessment and recommendations at the California Schools for the Deaf or Blind or the Diagnostic Schools for Neurologically Handicapped Children.

SEC. 31. Section 56336.5 is added to the Education Code, to read:

56336.5. (a) The individualized education program shall be a written statement determined in a meeting of a school appraisal team or educational assessment service team which shall include (1) the present levels of the pupil's educational functioning; (2) the long-range goals and annual objectives; (3) the specific special educational programs and services required by the pupil and the extent the pupil will be able to participate in regular educational programs; (4) the projected date for initiation and anticipated duration of such programs and services; and (5) appropriate objective criteria upon which to determine whether the instructional objectives are being achieved.

The individualized education program shall include provisions for the transition into the regular class program if the pupil is to be transferred from a special day class or center or nonpublic school into a regular class in a public school.

(b) In addition to the long-range goals and annual objectives included in the pupil's individualized educational program, the special education teachers or specialists of the pupil shall develop and periodically review and revise the pupil's written short-term objectives and activities for each pupil.

(c) A secondary grade level pupil's individualized education program shall also include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and meet or exceed proficiency standards for graduation, in accordance with Sections 51225 and 51225.5.

(d) It is the intent of the Legislature in requiring individualized education programs that the educational agency is responsible for providing the services delineated in the individualized education. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

SEC 32. Section 56337 of the Education Code is amended to read:

56337. (a) Whenever an assessment is to be conducted by a school appraisal team or an educational assessment service, the consent of the parent shall be obtained and the parent of the pupil shall be given written notice of the intended assessment and be given at least 10 schooldays in which to arrive at a decision before the assessment begins. This written notice shall be in ordinary and concise language and in the primary language of the pupil's home and shall fully explain the procedure and objective of the assessment and the facts which make an assessment necessary or desirable. The written notice shall state that no educational placement will result from the assessment without the consent of the pupil's parent.

The assessment of any pupil referred to a school appraisal team or an educational assessment service shall be completed within 35 schooldays from the date of receipt of written parental consent for such assessment, except that when both assessments are required the total time shall not exceed 50 schooldays. Those persons assessing the pupil shall maintain a complete and specific written record of diagnostic procedures employed, the conclusions reached, the suggested course of education or treatment best suited to the pupil's needs, its anticipated duration, and the specific objectives to be attained. Subdivision (i) of Section 56301 shall apply to the assessment of all pupils. Such assessment shall remain confidential and be used only for the administration of the special education programs, including, but not limited to, assuring that each special education program is meeting the objectives for the children assigned to it.

(b) Admission of a pupil to a special education program under this chapter shall be made only on the basis of an individual assessment according to standards established by the board and upon an individual recommendation of either a school appraisal team or an educational assessment service. Pupils admitted to special education programs prior to the implementation of this chapter on the basis of

procedures and criteria in effect at the time of such admission shall be admitted to programs under this chapter on the same basis as pupils recommended by a school appraisal team or an educational assessment service.

(c) The parent of the pupil shall be notified in writing in ordinary and concise language and in the primary language of the pupil's home, of the findings of the assessment, the recommended educational decision, and the reasons therefor. The notice shall state that:

(1) A conference with the parent and his or her representative will be scheduled upon request.

(2) If the parent disagrees with the recommended educational decision, he or she has the right to procure an independent assessment of the child from qualified specialists, as defined by rules and regulations of the board, which assessment will become a part of the pupil's record.

(3) The parent has the right to have the recommended educational decision reviewed.

(d) The psychological assessment of pupils under procedures required by subdivision (i) of Section 56301 shall be conducted by a credentialed school psychologist who is adequately trained and prepared to evaluate cultural and ethnic factors.

(e) Whenever a pupil transfers into a school district from a school district not operating programs under the same local comprehensive plan in which his last enrollment was in a special education program, the administrator of a local program under this chapter may place the pupil in a comparable program for a period not to exceed 30 days. Such an interim placement may be made without the complete documentation specified in subdivision (a). Before the expiration of the 30-day period such interim placement shall be reviewed by the school appraisal team or the educational assessment service and a final recommendation shall be made by the team or service in accordance with the requirements of this chapter. The team or service may utilize information, records, and reports from the admission proceedings of the school district or county program from which the pupil transferred.

SEC. 33. Section 56338 of the Education Code is amended to read:

56338. No pupil may be required to participate in any special class or program under this chapter unless the parent of the pupil is first informed of the facts which make participation in the special program necessary or desirable and thereafter consents in writing to such participation.

After consultation with a member of the school appraisal team, or educational assessment service, such consent may be withdrawn at any time.

SEC. 34. Section 56339 of the Education Code is amended to read:

56339. Whenever a pupil is being assessed by a school appraisal team or an educational assessment service, the parents shall be

notified in advance of their rights pursuant to Sections 56340 and 56341 that they have the right to present information to the team or service in person or through a representative, and to participate in the meeting devoted to eligibility, recommendations, and program planning.

SEC. 35. Section 56340 of the Education Code is repealed.

SEC. 36. Section 56341 of the Education Code is repealed.

SEC. 37. Section 56341 is added to the Education Code, to read:

56341. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process by a fair and impartial administrative hearing before a fair hearing panel in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education and related services program.

(b) Each school district shall take steps to insure that each hearing and review conducted: (a) is commenced and completed as quickly as possible, consistent with fair consideration of the issues involved, but not later than 45 days after receipt of a complaint, unless the parties agree to an extension; and (b) is conducted at a time and place which is reasonably convenient to the parent and pupil involved.

SEC. 38. Section 56341.1 is added to the Education Code, to read:

56341.1. Upon receipt by the responsible local agency of a written request submitted by a parent for a hearing before a fair hearing panel, the responsible local agency director or his or her designee or designees shall within 10 schooldays of receipt of such request comply with the following: (1) Meet with the parent to informally review the parent's concern. The parent shall have the right to examine any documents contained in the pupil's file maintained by the school district pursuant to Section 56341.2 and may be accompanied by a representative or representatives chosen by the parent; (2) based upon this informal review, the responsible local agency director may authorize modification of the individualized education program and related services to the satisfaction of the parent; and (3) if the meeting failed to resolve the parent's concern to the satisfaction of the parent, the responsible local agency director shall implement the procedures to convene a fair hearing panel pursuant to Sections 56341 and 56341.3.

SEC. 39. Section 56341.2 is added to the Education Code, to read:

56341.2. The parent shall have the right and an opportunity to examine all school records of the handicapped pupil within five school days after such request is made by the parent, either orally or in writing. A school district may charge no more than the actual cost of reproducing such records; but if this cost effectively prevents a parent from exercising the right to receive such copy, it shall be reproduced at no cost.

SEC. 40. Section 56341.3 is added to the Education Code, to read:

56341.3. The fair hearing panel shall be composed of three persons knowledgeable of the needs of the individual with exceptional needs to serve as an impartial body in its deliberations so as to protect the rights of the parties involved. The fair hearing panel shall be formed within five days after the review by the responsible local agency director or his or her designee and if there is no agreement as to the concern or concerns at issue; or a request by the concerned parent, or the school district, for a hearing before the fair hearing panel.

(a) Each member shall be impartial, unbiased, and not an employee or agent of the school district, county superintendent of schools, or responsible local agency responsible for the hearing and shall not be an employee or agent of a private nonsectarian school being considered for the pupil's placement. Members of the fair hearing panel shall be selected as follows: one selected by the responsible local agency, one selected by the parent, and the third member selected by mutual agreement of the two members so selected. If the two members already chosen are unable to select the third person within the specified five-day period the responsible local agency shall notify the county superintendent who shall immediately select the third member. If the county superintendent is a party to the hearing, and there is a disagreement of the selection of the third member, the county superintendent shall request the third member to be selected by another school district. Each member of the hearing panel shall have expertise relating to the handicap of the pupil, and of the appropriate education of such pupil. The chairman of the fair hearing panel shall be selected by the members of the fair hearing panel.

(b) The responsible local agency may reimburse each member of the fair hearing panel a reasonable per diem and transportation costs for participation in the fair hearing panel, as normally authorized by the responsible local agency for its employees. Any other incidental costs related to the fair hearing procedure shall be borne by the responsible local agency which is a party to the hearing.

(c) If the fair hearing panel requests an independent educational assessment as part of the hearing, the cost of the evaluation shall be at public expense.

SEC. 41. Section 56341.4 is added to the Education Code, to read:

56341.4. Either party who disagrees with the determination of the fair hearing panel may file a petition, in writing, within 20 days following the decision to request a review of the decision of the fair hearing panel before the Superintendent of Public Instruction.

The parties shall be informed within 10 days of the date, time, and place of the hearing before the Superintendent of Public Instruction or his designee or designees.

The parent and the responsible local agency shall each be given an opportunity to present an oral or written argument, or both, to the superintendent, or his designee or designees within 30 days following receipt by the superintendent of the appeal request by either party. Within 15 days after the hearing has been held, the superintendent

or his designee or designees shall render a written, reasoned decision, which shall be the final administrative determination. A copy of the written decision shall be transmitted to the parent and the responsible local agency to inform them of the effective date of that determination and shall notify either party of their right to appeal to a court of competent jurisdiction.

SEC. 42. The heading of Article 4 (commencing with Section 56350) of Chapter 2 of Part 30 of the Education Code is amended to read:

Article 4. Program Evaluation and Review

SEC. 43. Section 56350 of the Education Code is amended to read:

56350. Each responsible local agency shall submit to the superintendent at least annually a report in a form and manner prescribed by the superintendent. Such reports shall include that information necessary for the superintendent to carry out his or her responsibilities described in Section 56351 and such other statistical data, program descriptions, and fiscal information as the superintendent may require.

SEC. 44. Section 56351 of the Education Code is amended to read:

56351. In accordance with a program evaluation plan adopted pursuant to subdivision (e) of Section 56310, the superintendent shall submit to the board, the Legislature, and the Governor, an annual evaluation of the special education programs implemented under this chapter. This evalution shall:

(a) Be performed consistent with the general provisions of Sections 33400, 33401, and 33404;

(b) Be an individual program evaluation for the purposes of Section 33403;

(c) Include, but not be limited to:

(1) Descriptive information, including but not limited to:

(A) Program costs.

(B) Pupils by classifications.

(C) Placement of pupil in least restrictive environments.

(D) Pupils transferred.

(E) Racial and ethnic distribution.

(2) Program implementation and outcome data, including but not limited to:

(A) Pupil performance.

(B) Placement of pupils in least restrictive environments.

(C) Degree to which services identified in individualized education programs are provided.

(D) Parent, pupil, teacher and administrator satisfaction with services and process provided.

(d) In addition, the superintendent shall conduct special, in-depth studies of particular issues as identified in the annual program evaluation plan submitted to the board pursuant to subdivision (e) of Section 56310.

SEC. 45. Section 56352 of the Education Code is amended to read:

56352. The annual reports required under Sections 56350 and 56351 shall also identify the numbers of individuals with exceptional needs, their racial and ethnic data, and the special education programs provided in the following classifications:

(a) Communicatively handicapped.

(b) Physically handicapped.

(c) Learning handicapped.

(d) Severely handicapped.

SEC. 46. Section 56354 of the Education Code is amended to read:

56354. The superintendent shall provide for onsite program and fiscal reviews of the implementation of plans approved under this chapter. In performing such reviews and audits, the superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs. Each responsible local agency shall receive at least one review during the period of approval of its local comprehensive plan for special education.

SEC. 46.5. Section 56355 is added to the Education Code, to read:

56355. The Department of Education shall contract for an independent evaluation of the programs established pursuant to this chapter to be conducted during the 1977–78, 1978–79, 1979–80, 1980–81, and 1981–82 fiscal years which shall contain, but need not be limited to, annual and longitudinal information from a sampling of participating and nonparticipating districts and schools regarding:

(a) Number and characteristics of pupils served by type of exceptional need classification and instructional program.

(b) Placement of pupils in least restrictive environment.

(c) Classroom characteristics, including staff-pupil ratios and class composition.

(d) Degree to which objectives identified in individualized educational programs, including pupil cognitive skill development, are achieved, provided appropriate assessment measures related to such objectives are available.

(e) Pupil attitudes toward self, school and others and pupil interpersonal relationships.

(f) Parent, pupil, teacher and administrator satisfaction with services and processes provided, and parental involvement in programs and services.

(g) Improvement of professional skills among teachers, administrators and other school personnel.

(h) Program costs, including expenditures for direct services, support services and indirect support at the responsible local agency, district and school levels, and sources of funding at the responsible local agency and district levels.

Such information shall: (1) allow comparisons between participating and nonparticipating districts and schools with regard to subdivisions (a) through (h) above; (2) provide information with regard to subdivisions (b) through (f) and (h) in relation to exceptional need classifications and instructional programs

identified in subdivision (a), and (3) for the purpose of improving administrative processes and procedures, include comparisons among responsible local agencies as measured by subdivisions (a) and (h) above.

The independent evaluator shall have expertise in evaluation. Selection of the independent evaluator, and the design and scope of the evaluation, shall be subject to approval by the Legislative Analyst and the Department of Finance.

The evaluator, by January 1, 1979, and annually thereafter through 1982, shall submit a report to the Legislature and the Governor.

SEC. 47. Section 56360 of the Education Code is amended to read:

56360. In addition to any other apportionments provided by law, the superintendent shall apportion from the State School Fund to each school district and office of the county superintendent of schools participating in a local comprehensive plan, through the coordination of the responsible local agency, an amount which in addition to available federal funds will provide the following allowances for the fiscal year ending June 30, 1979:

(a) For each special class, the sum of nineteen thousand seven hundred dollars ($19,700).

(b) For each special center for the severely handicapped, the sum of nineteen thousand seven hundred dollars ($19,700) per class.

(c) For each resource specialist program, the sum of twenty-four thousand four hundred sixty dollars ($24,460).

(d) For designated instruction and services, the sum of twenty-four dollars ($24) per instructional hour per specialist.

(e) For nonpublic school services, the maximum sum of one thousand seven hundred fifty dollars ($1,750) per pupil enrolled in a nonpublic school.

(f) For identification, assessment and instructional planning, the sum of one hundred forty dollars ($140) per pupil enrolled in special education services.

(g) For management and support services, the sum of seventy-five dollars ($75) per pupil enrolled in special education services including public and nonpublic school services under this chapter, which shall be budgeted for administrative services, program evaluation, staff development services, and instructional equipment and materials. The budget shall specifically indicate amounts budgeted for equipment and materials for pupils with vision and hearing impairments. In addition to the above, the department shall apportion fifteen dollars ($15) per pupil for instructional materials and fifteen dollars ($15) per pupil for equipment for each new special education program approved under this chapter.

(h) For special transportation services, the amount of seven hundred thirty dollars ($730) per unit of average daily attendance for those pupils eligible for such services as determined by rules and regulations adopted by the board.

(i) Each fiscal year, the superintendent shall adjust the amounts

set forth in subdivisions (a) through (h) to reflect the difference in costs due to fluctuations of monetary value. The adjustment factor shall be jointly determined by the Department of Education and the Department of Finance.

SEC. 48. Section 56360.5 is added to the Education Code, to read:

56360.5. The Superintendent of Public Instruction shall adopt rules and regulations to ensure that allowances made pursuant to Section 56360 shall be paid on account of no more than 11 percent of the statewide enrollment in kindergarten and grades 1 to 12, inclusive, for the current school year.

SEC. 49. Section 56361 of the Education Code is amended to read:

56361. It is also the intent of the Legislature to provide financial assistance on an equalization basis for capital outlay including the removal of architectural barriers for individuals with exceptional needs. The superintendent shall develop a proposal that shall implement this intent in a report to the Legislature by February 15, 1978.

SEC. 50. Section 56362 of the Education Code is amended to read:

56362. For the 1978–79 fiscal year and each fiscal year thereafter, the department shall include in its budget for the State School Fund sufficient funds to make apportionments under this chapter and an amount sufficient for the administration by the department of the provisions of this chapter.

SEC. 51. Section 56362.1 is added to the Education Code, to read:

56362.1. Sound recordings, large type, and braille books purchased, instructional materials transcribed from regular print into special media, and special supplies and equipment purchased for individuals with exceptional needs for which state or federal funds were allowed are property of the state and shall be available for use by individuals with exceptional needs throughout the state as the board shall provide.

SEC. 52. Section 56362.2 is added to the Education Code, to read:

56362.2. (a) A sum of four hundred thousand dollars ($400,000) is annually appropriated from the General Fund to the Department of Education for the purpose of contracting or making grants for conducting research in the education of individuals with exceptional needs and gifted pupils. It is the intent of the Legislature that these funds be used to provide grants and contracts to individuals, organizations, agencies or institutions of higher education, other than the Department of Education, possessing personnel, facilities and the competencies necessary for successful completion of such studies. Each fiscal year the amount set forth in this subdivision shall be adjusted for inflation. The adjustment factor shall be jointly determined by the Department of Education and the Department of Finance.

(b) The Department of Education shall submit to the State Board of Education, by January 15 of each year, an annual program plan for

research in the education of individuals with exceptional needs and gifted pupils. The plan shall contain a description of the procedures for the development, review, selection, monitoring and dissemination of such studies. The State Board of Education shall incorporate the following criteria in reviewing the annual plan: (1) The plan accounts for coordination of all state and federal resources available to the Department of Education for research and program development in special education; (2) The proposed priorities represent significant statewide problems in the education of individuals with exceptional needs and gifted pupils; (3) Recognition is given those priorities needing long-term studies. Such studies may be authorized for up to a three-year period subject to annual review and approval by the State Board of Education; and (4) Studies funded through this section shall be coordinated with, but separate from, those activities defined within Section 56351.

(c) The Superintendent of Public Instruction may employ such personnel as may be required for the effective administration and dissemination of the research program activities. The superintendent shall use funds allocated in subdivision (a) for this purpose, provided such funds do not exceed 10 percent of the total amount apportioned.

SEC. 53. Section 56363 of the Education Code is amended to read:

56363. Apportionments under this chapter shall be made by the superintendent as early as practicable in the fiscal year. Upon order of the superintendent, the State Controller shall draw warrants upon the money appropriated, in favor of the eligible districts or counties in the amounts ordered.

SEC. 54. Section 56364 of the Education Code is repealed.

SEC. 55. Section 56364 is added to the Education Code, to read:

56364. (a) The approved local comprehensive plan to provide programs under this chapter may include expenditures to be funded through a tax levied pursuant to this section. Where such an approved local comprehensive plan provides for programs under this chapter, in lieu of the tax rate authorized in subdivisions (b), (c), and (d) of Section 2500, the county superintendent shall levy an identical tax over the districts participating in local comprehensive plans under this chapter. The maximum allowable tax rate for this purpose shall be determined in the following manner:

(1) The superintendent shall determine the statewide average expenditure per pupil for pupils served under this chapter for the 1979–80 fiscal year;

(2) The superintendent shall adjust the amount calculated in paragraph (1) to reflect fluctuations of monetary value. The adjustment factor shall be jointly determined by the Department of Education and the Department of Finance.

(3) The superintendent shall multiply the amount calculated in paragraph (2) by the projected number of pupils approved for funding under Section 56360 in the budget year through local

comprehensive plans in the county;

(4) The superintendent shall decrease the amount determined in paragraph (3) by the applicable federal and state categorical aid, and the revenue limit amounts of the districts that will be earned by pupils receiving special day class and centers and nonpublic school services under paragraphs (1) and (4) of subdivision (a) of Section 56332.

(5) The remainder determined in paragraph (4), if any, may be raised by a tax levied on the assessed valuation of the school districts participating in local comprehensive plans in the county.

(6) The amount calculated in paragraph (5) shall be adjusted for any difference between the amount calculated in paragraph (4) for the prior year and the amount that is authorized in paragraph (4) for the prior year based on actual data.

This section shall not require that any county levy a tax which would result in an expenditure per pupil amount which is less than the expenditure per pupil for special education programs in that county in 1976–77.

On the basis of the approved local comprehensive plans, and pursuant to regulations adopted by the board, the county superintendent shall disburse revenues raised under this section to the responsible local agencies in the county. Such regulations shall be adopted by July 1, 1978, and shall include procedures for the cooperative involvement of the affected responsible local agencies in the proposed plan for disbursement of revenues raised under this section.

(b) In addition to the tax authorization provided in subdivision (a) of this section, the county superintendent of schools may levy and use a countywide tax for duties required to be performed pursuant to subdivisions (a), (b), (c), and (d) of Section 56314. This tax shall not exceed that rate necessary to raise revenues in the amount of five dollars ($5) for a county of the first class, six dollars ($6) for a county of the second class, seven dollars ($7) for a county of the third class, eight dollars ($8) for a county of the fourth class, and ten dollars ($10) for all other county classes multiplied by the number of pupils in the county receiving special education services. County class shall be determined pursuant to Section 1205.

For the 1978–79 and 1979–80 fiscal years, the superintendent shall calculate the statewide average expenditure per pupil for the purposes of paragraph (1) of subdivision (a) of this section on the basis of the most current fiscal year data available at the time of the calculation.

SEC. 56. Section 56367 of the Education Code is repealed.

SEC. 57. Section 56367 is added to the Education Code, to read:

56367. It is the intent of the Legislature that the role of the nonpublic, nonsectarian schools shall be maintained and continued as an alternative special education service available to responsible local agencies and parents. (a) The contract for nonpublic school services, pursuant to paragraph (4) of subdivision (a) of Section

56332, shall be developed in accordance with the following provisions:

(1) The contract shall specify the administrative and financial agreements between the nonpublic school and the responsible local agency to provide the services included in the pupil's individualized educational program. The contract may allow for partial or full-time attendance at the nonpublic school.

(2) The contract shall be negotiated for the length of time for which nonpublic school services are specified in the pupil's individualized educational program.

Changes in educational services or placement provided under contract may only be made on the basis of revisions to the pupil's individualized educational program.

At any time during the term of the contract the parent, nonpublic school, or responsible local agency may request a review of the pupil's individualized educational program by the educational assessment service. Changes in the administrative or financial agreements of the contract which do not alter the educational services or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic school and the responsible local agency.

(3) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(b) If the pupil is enrolled in the nonpublic school with the approval of the responsible local agency prior to agreement to a control, the responsible local agency shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 45 schooldays during which time the contract shall be consummated. If after 45 schooldays the contract has not been finalized as prescribed in paragraph (1) of subdivision (a) of the section, either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local comprehensive plan involved in the private school contract, or the Superintendent of Public Instruction, if the county superintendent is participating in the local comprehensive plan involved in the contract, to negotiate the contract. Within 30 calendar days of receipt of this appeal, the county superintendent or the Superintendent of Public Instruction, or his or her designee, shall develop a contract which shall be binding upon the both parties.

(c) No contract for nonpublic school services shall be authorized under this chapter unless the private school has been certified as meeting those standards relating to the required special education services and facilities for individuals with exceptional needs. The certification shall result in the private school receiving approval to

educate pupils under this chapter for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the State Board of Education. The private school shall be charged a reasonable sum for this certification. In addition to those standards adopted by the State Board of Education, the private school shall meet all applicable standards relating to fire, health, sanitation, and building safety.

SEC. 58. Section 56501 of the Education Code is amended to read:

56501. The education of mentally retarded pupils who are of kindergarten or compulsory school age and who may be expected to benefit from special education facilities designed to make them economically useful and socially adjusted shall be provided all eligible pupils in the manner set forth in Sections 56500 to 56534, inclusive, and in Sections 1880 to 1889, inclusive, and Section 1856. Such special education may be provided to mentally retarded pupils who are above compulsory school age and less than 22 years of age.

An annual report shall be made by each school district or county superintendent of schools to the Department of Education indicating the number of eligible pupils for whom no such special education is provided and the reason therefor.

SEC. 59. Section 56507 of the Education Code is repealed.

SEC. 59.5. Section 56507 is added to the Education Code, to read:

56507. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the primary language or other mode of communication of the parent;

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time;

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted;

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private;

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program; and,

(6) Procedural due process by a fair and impartial administrative hearing before a fair hearing panel.

SEC. 60. Section 56602 of the Education Code is amended to read:

56602. The governing board of any school district or a county superintendent of schools with the approval of the county board of education, maintaining schools in juvenile halls or juvenile homes, ranches, or camps as authorized by the Welfare and Institutions Code, shall provide for the special educational programs for educationally handicapped pupils authorized in this section. A county superintendent of schools may enter into an agreement pursuant to Section 56608 with the governing board of a school district having less than 901 average daily attendance in the elementary schools or less than 901 in the high schools of the district to provide any one or more of such special educational programs for the district, or the county superintendent of schools may enter into an agreement pursuant to Section 56608 with the governing board of a school district having an average daily attendance of 901 or more in the elementary schools of the district or 901 or more in the high schools of the district to provide only those special educational programs for the district which are set forth in subdivision (a), (c), or (d), or any combination thereof. Whenever a special educational program for educationally handicapped pupils set forth in subdivision (a) or (d) of this section is provided by a county superintendent of schools for a district with an average daily attendance of 901 or more in the elementary schools of the district or 901 or more in the high schools of the district, pursuant to an agreement entered into pursuant to Section 56608, the foundation program prescribed in Section 41704 for an elementary district with an average daily attendance of 901 or more shall apply to educationally handicapped pupils of the elementary schools of the district who are in such a special education program and the foundation program prescribed in Section 41712 shall apply to educationally handicapped pupils of the high schools of the district who are in such a special educational program.

Such special educational programs shall be provided in accordance with standards for each approved by the State Board of Education. Such standards shall emphasize fundamental school subjects with the aim of returning the pupils to the regular school program at the earliest possible date consistent with the interest of the pupil.

The special educational programs for educationally handicapped pupils are:

(a) Special day classes (elementary and secondary). Under this program, educationally handicapped pupils unable to function in a regular class are assigned to a special day class. The special day class shall be maintained for not less than the minimum schoolday. In this program, fundamental school subjects shall be emphasized as prescribed by the State Board of Education.

(b) Learning disability groups (elementary and secondary). In this program, the pupil remains in his regular class but is scheduled for individual or small group instruction given by a special teacher. Whenever one to four educationally handicapped pupils are instructed at the same time by the same teacher in a learning

disability group conducted by a school district or county superintendent of schools, the total attendance credited for such pupils shall equal one unit of attendance for each 60 minutes of instruction.

(c) Specialized consultation to teachers, counselors, and supervisors (elementary and secondary). Under this program, specialized consultation is provided teachers, counselors, and supervisors relative to the learning disabilities of individual pupils and special education services required by such pupils.

(d) Home and hospital instruction (elementary and secondary). Under this program, a pupil who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level at home or in a hospital.

(e) Regular class instruction. Under this program, whenever the number of educationally handicapped pupils is less than six in each of one or more schools of a district or schools served by a county superintendent and the distance between any school also having educationally handicapped pupils is excessive, prohibiting the reasonable transportation of pupils, such pupils may be instructed in the regular classes of the district or county with prior approval of the Superintendent of Public Instruction, providing an instructional aide is employed in each such regular class for the regular schoolday, and that supervision of the instructional program for educationally handicapped pupils is provided by a credentialed person having expertise and experience in teaching the educationally handicapped. School districts providing regular class instruction for educationally handicapped pupils under this subdivision shall be qualified for the individual apportionment under subdivision (i) of Section 41888.

(f) Private school services for exceptional children under the provisions of Sections 56031 through 56038.

SEC. 61. Section 56604 of the Education Code is amended to read:

56604. The governing board of each school district shall provide for instruction of educationally handicapped pupils who reside in all regularly established nonprofit, tax-exempt, licensed children's institutions within the district. Under such a program, a pupil who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level in the institution, or a pupil who resides in the institution and who is able to function in a school setting receives instruction at the appropriate grade level in the public school facilities.

The governing board may contract with the county superintendent of schools for the provision of such programs.

SEC. 62. Section 56605 of the Education Code is repealed.

SEC. 63. Section 56605 is added to the Education Code, to read:

56605. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the

implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the public and in the primary language or other mode of communication of the parent;

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time;

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted;

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private;

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program; and,

(6) Procedural due process by a fair and impartial administrative hearing before a fair hearing panel.

SEC. 64. Section 56717 of the Education Code is amended to read:

56717. Pupils between the ages of 3 and 21 and who are multihandicapped, as determined by the State Board of Education, may be enrolled in special day classes for the multihandicapped conducted by a school district or county superintendent of schools. Special day classes for multihandicapped pupils shall be approved in advance by the Superintendent of Public Instruction.

SEC. 65. Section 56719 of the Education Code is repealed.

SEC. 66. Section 56719 is added to the Education Code, to read:

56719. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; and the denial, placement, transfer, or termination of the pupil in a special education or related services program. Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the primary language or other mode of communication of the parent;

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time;

(3) The requirement that written parental consent must be obtained before any assessment of the pupil is conducted;

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private;

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program; and,

(6) Procedural due process by a fair and impartial administrative hearing before a fair hearing panel.

SEC. 67. The Department of Education, in cooperation with the Department of Health, shall develop by August 1, 1978, guidelines concerning the use, if any, of aversive procedures in the education of individuals with exceptional needs, including guidelines for parents notification, consent, and participation.

SEC. 67.5. The Commission for Teacher Preparation and Licensing and the Department of Education shall cooperate in developing requirements that will ensure that all individuals receiving a clear teaching credential, except a designated subjects teaching credential, or an administrative services credential after July 1, 1979, shall have received training in the needs of, and methods of providing educational opportunities to, individuals with exceptional needs.

SEC. 67.8. The State Board of Education shall, by January 31, 1978, report and make recommendations to the Legislature on the desirability of modifying the classifications specified in Section 56352 of the Education Code.

The State Board of Education shall also report to the Legislature by January 31, 1978, on the estimated special education program costs during the 1977–78 school year for (a) districts participating, and (b) districts not participating in the Master Plan for Special Education. This report shall include total expenditures for special education and all amounts and sources of funding, including state, local, and federal sources. This reporting process shall be repeated with regard to the 1978–79 and 1979–80 school years.

SEC. 68. Section 59001 of the Education Code is amended to read:

59001. The California School for the Deaf is part of the public school system of the state except that it derives no revenue from the State School Fund, and has for its object the education of the deaf who, because of their severe hearing loss and educational needs, cannot be provided an appropriate educational program and related services in the regular public schools.

SEC. 69. Section 59002 of the Education Code is amended to read:

59002. The school is under the administration of the State Department of Education.

The Superintendent of Public Instruction, in connection with the California School for the Deaf shall:

(a) Provide educational assessments and individual educational recommendations for individuals referred for such service by responsible local agencies under Section 56336.4.

(b) Maintain a comprehensive elementary educational program, including related services, for deaf individuals.

(c) Serve as a regional secondary educational program providing a comprehensive secondary education including a full range academic curriculum, appropriate provocational and vocational preparation opportunities, and nonacademic and extracurricular activities.

SEC. 70. Section 59002.5 is added to the Education Code, to read:

59002.5. The Superintendent of Public Instruction, in connection with the California School for the Deaf and in cooperation with public and private agencies, may:

(a) Serve as a demonstration school to promote personnel development through student teaching, in-service education, internships, professional observations for special education and related services personnel in cooperation with institutions of higher education and local education agencies.

(b) Serve as a resource center to develop and disseminate special curriculum, media teaching methods, and instructional materials adapted for deaf individuals, achievement tests and other assessment methods useful to the instruction of deaf individuals.

(c) Provide counseling and information services for parents, guardians, and families of deaf individuals, and public information about deafness to community groups, and other agencies.

(d) Conduct experimental programs and projects to promote improvement in special education for deaf individuals.

(e) Promote and coordinate community and continuing education opportunities for deaf individuals utilizing existing community resources.

SEC. 71. Section 59101 of the Education Code is amended to read:

59101. The California School for the Blind is a part of the public school system of the state except that it derives no revenue from the State School Fund, and has for its object the education of the visually handicapped and deaf-blind, who, because of their severe sensory loss and educational needs, cannot be provided an appropriate educational program and related services in the regular public schools.

SEC. 72. Section 59102 of the Education Code is amended to read:

59102. The school is under the administration of the Department of Education.

The Superintendent of Public Instruction, in connection with the California School for the Blind shall:

(a) Provide educational assessments and individual educational recommendations for individuals referred for such service by responsible local agencies under Section 56336.4.

(b) Maintain a comprehensive elementary and secondary educational program, including related services and nonacademic and extracurricular activities for visually handicapped and deaf-blind individuals.

SEC. 73. Section 59102.5 is added to the Education Code, to read:

59102.5. The Superintendent of Public Instruction, in connection with the California School for the Blind and in cooperation with public and private agencies, may:

(a) Serve as a demonstration school to promote personnel development through student teaching, in-service education, internships, professional observations for special education and related services personnel in cooperation with institutions of higher education and local education agencies.

(b) Serve as a resource center to develop and disseminate special curriculum, media, teaching methods and instructional materials adapted for visually handicapped and deaf-blind individuals, achievement tests and other assessment methods useful to the instruction of blind and deaf-blind individuals.

(c) Provide counseling and information services for parents, guardians, and families of visually handicapped or deaf-blind individuals; and public information about sensory losses to community groups and other agencies.

(d) Conduct experimental programs and projects to promote improvement in special education for visually handicapped and deaf-blind individuals.

(e) Promote community and continuing education opportunities for visually handicapped and deaf-blind individuals utilizing existing community resources.

SEC. 74. Section 59201 of the Education Code is amended to read:

59201. The diagnostic schools for neurologically handicapped children are a part of the public school system of the state, except that they derive no revenue from the Public School Fund, and have for their object diagnosis, and the determination of the treatment, and educational program of children with neurological handicaps, including autism. These schools provide temporary residence for children, who, by reason of their handicaps, need educational diagnostic services not available in regular public school classes.

SEC. 75. Section 59204 of the Education Code is amended to read:

59204. The Superintendent of Public Instruction, in connection with the diagnostic schools for neurologically handicapped children, shall also:

(a) Make comprehensive diagnostic evaluations of individuals referred for such service by responsible local agencies under Section 56336.4.

(b) Provide instructional planning services for individuals evaluated under subdivision (a).

(c) Provide counseling services for parents, guardians, and families of neurologically handicapped and seriously emotionally disturbed and autistic children.

(d) Maintain a model assessment service and demonstration classrooms to develop appropriate individual educational programs for pupils and to assist local school districts in providing appropriate

programs and services for neurologically handicapped, seriously emotionally disturbed and autistic children.

SEC. 76. Section 59204.5 is added to the Education Code, to read:

59204.5. The Superintendent of Public Instruction, in connection with the Diagnostic Schools for Neurologically Handicapped Children and in cooperation with public and private agencies, may:

(a) Conduct experimental assessment projects designed to meet needs of those categories of neurologically handicapped, seriously emotionally disturbed, and autistic children selected by the Superintendent of Public Instruction.

(b) Serve as a demonstration school to promote personnel development through student teaching, in-service education, internships, professional observations for special education and related services personnel in cooperation with institutions of higher education and local education agencies.

SEC. 77. A parent or guardian who received tuition payments for the period September 1, 1977 to June 30, 1978, inclusive, pursuant to Article 3 (commencing with Section 56030) of Chapter 1 of Part 30 of the Education Code, as that article read on December 31, 1977, may file with the school district a claim for excess costs paid by the parent or guardian for that period for services specified in the pupil's individualized education program, in order that an appropriate education can be provided without cost to the parent or guardian. The claim shall be filed, processed, and paid, and the district shall be reimbursed, in the manner prescribed by Article 3 as it read on December 31, 1977, except that such reimbursement shall be made during the fiscal year in which the attendance occurred. The excess costs which may be claimed shall be the actual cost of educating the pupil pursuant to the individualized education program less the monthly payments received pursuant to Section 56034 of the Education Code, as it read on December 31, 1977. The Superintendent of Public Instruction shall apportion to school districts sufficient funds to reimburse them for all valid claims paid pursuant to this section for the period September 1, 1977, through December 31, 1977, inclusive. The Superintendent of Public Instruction shall apportion to school districts sufficient funds to reimburse them in accordance with Section 56039 of the Education Code, as added by this act, for the period of January 1, 1978, through June 30, 1978, inclusive, except that no contract shall be required.

SEC. 78. This act shall become operative July 1, 1978, except Sections 8.5, 67.8, and 77 of this act, which shall become operative January 1, 1978.

SEC. 79. Except as otherwise provided by this act, and notwithstanding Sections 2229, 2230, and 2231 of the Revenue and Taxation Code, there shall be no additional reimbursement pursuant to those sections nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on school districts by this act are either incurred as a part of their normal operating procedures or are funded through other appropriations in

this act.

CHAPTER 1248

An act to amend Section 13142.4 of, and to add and repeal Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of, the Health and Safety Code, relating to fire service training and education, and making an appropriation therefor.

[Approved by Governor October 1, 1977. Filed with Secretary of State October 1, 1977.]

I am reducing the appropriation contained in Section 3 of Senate Bill No. 456 from $458,000 to $90,000

I believe the Fire Marshal, in cooperation with the Board of Governors of the Community Colleges, together with local authorities and private sector representatives, can achieve the goals of this bill.

With this reduction, I approve Senate Bill No 456.

EDMUND G. BROWN JR , Governor

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

SECTION 1. Section 13142.4 of the Health and Safety Code is amended to read:

13142.4. The board, in cooperation with the Office of the State Fire Marshal, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop, validate, update, copyright, and maintain security over a complete series of entry and promotional examinations based on the mimimum standards established pursuant to subdivision (a).

(c) Have the authority to make the examinations developed pursuant to subdivision (b) available to any agency of the state, to any political subdivision within the state, or to any other testing organization, as it deems appropriate.

(d) Establish such fees as necessary to implement subdivision (c).

The recommended minimum standards established pursuant to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

SEC. 2. Article 4 (commencing with Section 13155) is added to Chapter 1 of Part 2 of Division 12 of the Health and Safety Code, to read:

Article 4. California Fire Service Training and Education Program

13155. This article shall be known and may be cited as the California Fire Service Training and Education Program Act.

13156. The Legislature finds and declares that the purposes of this article are as follows:

(a) To reduce the costs in suffering and property loss resulting from fire through standardized fire training and education programs.

(b) To provide professional fire service training and education programs to personnel in fire departments that rely extensively on volunteers.

(c) To develop new methods and practices in the area of fire protection.

(d) To disseminate information relative to fires, techniques of firefighters, and other related subjects to all interested agencies and individuals throughout the state.

(e) To enhance the coordination of fire service training and education.

13157. The California Fire Service Training and Education Program is hereby established in the office of the State Fire Marshal.

The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall carry out the management of the California Fire Service Training and Education Program and shall have the authority to:

(a) Promulgate and adopt rules and regulations necessary for implementation of the program.

(b) Establish the courses of study and curriculum to be used in the program.

(c) Establish prerequisites for the admission of personnel who attend courses offered in the program.

(d) Establish and collect admission fees and other fees that may be necessary to be charged for seminars, conferences, and specialized training given, which shall not be deducted from state appropriations for the purposes of this program.

(e) Collect such fees as may be established pursuant to subdivision (d) of Section 13142.4.

13158. The State Fire Marshal shall employ under civil service a program manager and staff as necessary to perform the functions for which the program has been established.

All personnel of the State Fire Training Program with the Department of Education shall be eligible to transfer to appropriate positions in the California Fire Service Training and Education Program provided they meet the qualifications for such positions.

13159. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall have the following responsibilities:

(a) To make fire service training and education programs, including training and education in the use of heavy rescue equipment, available on a voluntary basis to fire departments that rely extensively on volunteers.

(b) Cooperate with the State Board of Fire Services in the development of a minimum standards program for fire service personnel and fire service instructors.

(c) Assist and cooperate with State Board of Fire Services pursuant to Section 13142.4.

(d) Verify that minimum curriculum requirements, facilities, and faculty standards for schools, seminars, or workshops operated by or for the state for the specific purpose of training fire service personnel are being met.

(e) Make or encourage studies of any aspect of fire service training and education.

(f) Determine the need for and recommend locations of regional training sites.

(g) Assist and cooperate with the California Fire Chiefs' Association in their operation of the existing State Fire Academy Program.

13159.4. The State Fire Marshal shall annually review, revise as necessary, and administer the California Fire Service Training program, shall establish priorities for the use of state and federal fire service training and education funds applicable to statewide programs, other than those funds administered by the Department of Forestry, and shall approve the expenditure of all such funds in accordance with the established priorities. This section shall not restrict local entities from independently seeking and utilizing state and federal funds for local fire training and education needs.

13159.6. This article shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 3. The sum of four hundred fifty-eight thousand dollars ($458,000) is hereby appropriated from the General Fund to the State Fire Marshal for expenditure during the January 1, 1978, to June 30, 1978, portion of the 1977–78 fiscal year to carry out the California Fire Service Training and Education Program established pursuant to Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code. However, if the program is operated for less than six months during the 1977–78 fiscal year, then the funds appropriated pursuant to this section shall be prorated to reflect the actual number of months of operation. With the funds appropriated pursuant to this section, the State Fire Marshal may employ up to 18 instructors on the basis of program need.

CHAPTER 1249

An act to add Sections 14007, 41301.5, 41867, 59030.5, 59124.5, and 59223 to the Education Code, relating to special education, and making an appropriation therefor.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977.]

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

SECTION 1. Section 14007 is added to the Education Code, to read:

14007. In addition to all other funds appropriated and transferred to Section A of the State School Fund, the Controller shall annually transfer from the General Fund to Section A of the State School Fund for apportionment during the fiscal year a total amount of nine cents ($0.09) per pupil in average daily attendance during the preceding fiscal year credited to all elementary, high, and unified school districts and to all county superintendents of schools in the state. as certified by the Superintendent of Public Instruction, for the purposes of Section 41301.5.

SEC. 2. Section 41301.5 is added to the Education Code, to read:

41301.5. The amount transferred to Section A of the State School Fund by Section 14007 shall be expended pursuant to Sections 59030.5, 59124.5, and 59223.

SEC. 3. Section 41867 is added to the Education Code, to read:

41867. The Superintendent of Public Instruction shall adopt rules and regulations for the making of allowances under Sections 59030.5, 59124.5, and 59223.

SEC. 4. Section 59030.5 is added to the Education Code, to read:

59030.5. The Superintendent of Public Instruction shall allow to the California Schools for the Deaf, an amount not to exceed three hundred eighty-nine dollars ($389) per fiscal year per unit of average daily attendance of each deaf pupil attending one of the schools as a five-day residential pupil for the purpose of providing transportation to and from the pupil's home on weekends and school holiday periods. In no case shall the total apportionment made to the schools exceed the actual total transportation expenditures of the schools.

The administrators of such schools shall arrange for transportation of such pupils utilizing the most practical means including, but not limited to, commercial bus, rail, or air, charter bus or private passenger vehicle.

SEC. 5. Section 59124.5 is added to the Education Code, to read:

59124.5. The Superintendent of Public Instruction shall allow to the California School for the Blind, an amount not to exceed three hundred eighty-nine dollars ($389) per fiscal year per unit of average daily attendance of each blind pupil attending the school as a five-day residential pupil for the purpose of providing transportation to and from the pupil's home on weekends and school holiday periods. In no case shall the total apportionment made to the school exceed the actual total transportation expenditures of the school.

The administrators of such schools shall arrange for transportation of such pupils utilizing the most practical means including, but not limited to, commercial bus, rail, or air, charter bus or private

passenger vehicle.

SEC. 6. Section 59223 is added to the Education Code, to read:

59223. The Superintendent of Public Instruction shall allow to the Diagnostic Schools for Neurologically Handicapped Children, an amount not to exceed three hundred eighty-nine dollars ($389) per fiscal year per unit of average daily attendance of each neurologically handicapped pupil attending one of the schools as a five-day residential pupil for the purpose of providing transportation to and from the pupil's home on weekends and school holiday periods. In no case shall the total apportionment made to the schools exceed the actual total transportation expenditures of the schools.

The administrators of such schools shall arrange for transportation of such pupils utilizing the most practical means including, but not limited to, commercial bus, rail, or air, charter bus or private passenger vehicle.

CHAPTER 1250

An act to amend Section 1241 of the Business and Professions Code, to amend Section 844.6 of the Government Code, and to add Title 2.1 (commencing with Section 3500) to Part 3 of the Penal Code, relating to biomedical and behavioral research on prisoners.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 1241 of the Business and Professions Code is amended to read:

1241. This chapter applies to all clinical laboratories in California except those owned and operated by:

(a) The United States of America, or any department, agency, or official thereof acting in his official capacity.

(b) An individual licensed physician and surgeon for laboratory work performed on his own patients. If direct or indirect referred work is received from any source, all provisions of this chapter shall apply.

(c) An academic institution accredited by an accrediting agency approved by the department when clinical laboratory procedures are performed for teaching or research purposes only, if the results of any examinations performed in such laboratories are not used in the diagnosis or treatment of disease.

(d) The Department of Corrections, except that after July 1, 1979, such exception shall not apply to any clinical laboratory of the Department of Corrections which conducts biomedical or behavioral research pursuant to Title 2.1 (commencing with Section 3500) of Part 3 of the Penal Code.

(e) The California Youth Authority.

(f) A nonprofit corporation or association, which contracts with or employs individual licensed physicians and surgeons to render medical care and the operations of which are directly funded at least 80 percent by the United States government, for laboratory work performed on the patients of such physicians and surgeons and under the supervision of such physicians and surgeons. If direct or indirect referred work is received from any source, all provisions of this chapter shall apply.

(g) A community clinic, as defined in subdivision (a) of Section 1203 of the Health and Safety Code, which contracts with or employs individual licensed physicians and surgeons to render medical care for laboratory work performed on the patients of such physicians and surgeons. If direct or indirect referred work is received from any source, all provisions of this chapter shall apply.

SEC. 2. Section 844.6 of the Government Code is amended to read:

844.6. (a) Notwithstanding any other provision of this part, except as provided in this section and in Sections 814, 814.2, 845.4, and 845.6, or in Title 2.1 (commencing with Section 3500) of Part 3 of the Penal Code, a public entity is not liable for:

(1) An injury proximately caused by any prisoner.

(2) An injury to any prisoner.

(b) Nothing in this section affects the liability of a public entity under Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code.

(c) Except for an injury to a prisoner, nothing in this section prevents recovery from the public entity for an injury resulting from the dangerous condition of public property under Chapter 2 (commencing with Section 830) of this part.

(d) Nothing in this section exonerates a public employee from liability for injury proximately caused by his negligent or wrongful act or omission. The public entity may but is not required to pay any judgment, compromise or settlement, or may but is not required to indemnify any public employee, in any case where the public entity is immune from liability under this section; except that the public entity shall pay, as provided in Article 4 (commencing with Section 825) of Chapter 1 of this part, any judgment based on a claim against a public employee who is lawfully engaged in the practice of one of the healing arts under any law of this state for malpractice arising from an act or omission in the scope of his employment, and shall pay any compromise or settlement of a claim or action, based on such malpractice, to which the public entity has agreed.

SEC. 3. Title 2.1 (commencing with Section 3500) is added to Part 3 of the Penal Code, to read:

TITLE 2.1. BIOMEDICAL AND BEHAVIORAL RESEARCH

CHAPTER 1. DEFINITIONS

3500. For purposes of this title:

(a) "Behavioral research" means studies involving, but not limited to, the investigation of human behavior, emotion, adaptation, conditioning, and response in a program designed to test certain hypotheses through the collection of objective data. Behavioral research does not include the accumulation of statistical data in the assessment of the effectiveness of programs to which inmates are routinely assigned, such as, but not limited to, education, vocational training, productive work, counseling, recognized therapies, and programs which are not experimental in nature.

(b) "Biomedical research" means research relating to or involving biological, medical, or physical science.

(c) "Board" means the Institutional Review Board.

(d) "Psychotropic drug" means any drug that has the capability of changing or controlling mental functioning or behavior through direct pharmacological action. Such drugs include, but are not limited to, antipsychotic, antianxiety, sedative, antidepressant, and stimulant drugs. Psychotropic drugs also include mind-altering and behavior-altering drugs which, in specified dosages, are used to alleviate certain physical disorders, and drugs which are ordinarily used to alleviate certain physical disorders but may, in specified dosages, have mind-altering or behavior-altering effects.

(e) "Research" means a class of activities designed to develop or contribute to generalizable knowledge such as theories, principles, or relationships, or the accumulation of data on which they may be based, that can be corroborated by accepted scientific observation and inferences.

(f) "Research protocol" means a formal document setting forth the explicit objectives of a research project and the procedures of investigation designed to reach those objectives.

(g) "Phase I drug" means any drug which is designated as a phase I drug for testing purposes under the federal Food and Drug Administration criteria in Section 312.1 of Title 21 of the Code of Federal Regulations.

CHAPTER 2. GENERAL PROVISIONS AND PROHIBITIONS

3501. The Legislature affirms the fundamental right of competent adults to make decisions about their participation in biomedical or behavioral research.

3502. No biomedical research shall be conducted on any prisoner in this state without the informed consent of the prisoner.

3503. No biomedical research shall be conducted on any prisoner in this state unless there are good quality medical facilities in the prison where the research is being conducted, adequately staffed

and equipped, and approved by an outside medical accrediting organization such as the Joint Commission on Accreditation of Hospitals or a state medical society.

3503.1. Whenever the services of a clinical laboratory are necessary or incident to the proposed research and the laboratory at the institution where such research is to be conducted does not meet the requirements for licensure contained in Chapter 3 (commencing with Section 1220) of Division 2 of the Business and Professions Code, such research may be conducted only if the clinical laboratory work is conducted in a laboratory which is licensed in accordance with the requirements of Chapter 3 (commencing with Section 1220) of Division 2 of the Business and Professions Code.

3504. Any physical or mental injury of a prisoner resulting from the participation in biomedical or behavioral research, irrespective of causation of such injury, shall be treated promptly and on a continuing basis until the injury is cured.

3505. Behavioral research shall be limited to studies of the possible causes, effects and processes of incarceration and studies of prisons as institutional structures or of prisoners as incarcerated persons which present minimal or no risk and no more than mere inconvenience to the subjects of the research. Informed consent shall not be required for participation in behavioral research when the board determines that it would be unnecessary or significantly inhibit the conduct of such research. In the absence of such determination, informed consent shall be required for participation in behavioral research.

3506. No phase I drug shall be used in prisons unless it has been previously tested in other human beings.

3507. Psychotropic medication shall be used only if such medication is indicated in the medical treatment of a prisoner's condition and the use thereof is carefully monitored and evaluated or if used in the context of a research protocol designed to test its pharmacological or chemical properties or action without any serious risk to the prisoners' mental or physical well-being.

3508. Behavioral modification techniques shall be used only if such techniques are medically and socially acceptable means by which to modify behavior and if such techniques do not inflict permanent physical or psychological injury.

3509. No operative procedures requiring any incision shall be conducted unless clearly necessary for therapeutic purposes.

3509.5. Nothing in this title is intended to diminish the authority of any official or agency to adopt and enforce rules pertaining to prisoners, so long as such rules are not inconsistent with this title.

CHAPTER 3. ADMINISTRATION

3510. There is hereby created, the Institutional Review Board which shall be composed of at least seven members representing persons of diverse racial and cultural backgrounds.

3511. Three board members shall be licensed physicians, one of which shall be a psychiatrist; one member shall hold a doctorate degree in pharmacy or pharmacology; two members shall have doctorate degrees in the social sciences; and one member shall be an inmate representative.

3512. The members of the board, except the inmate representative, shall be appointed by the Governor within 60 days of the effective date of this act. Subsequent appointments shall be made within 60 days of a vacancy occurring. If within 60 days the Governor fails to make such appointments, the Speaker of the Assembly shall make the appointments. The inmate representative shall be appointed by the Inmate Advisory Council at each correctional facility in which research is being conducted. The remaining members shall be appointed from a list of names submitted by the deans of the accredited four-year medical schools in California, or by the President of the University of California. All gubernatorial appointees shall have familiarity and experience in biomedical or behavioral research.

3513. One social scientist and one physician and either the psychiatrist or the pharmacologist shall serve an initial term of two years. All other members shall serve an initial term of four years. No person shall serve more than two terms.

3514. Board members shall receive no compensation for serving as board members but shall be reimbursed for reasonable expenses incurred in the performance of their duties as board members.

3515. The duties of the board are to determine:

(a) That the risks to the prisoners consenting to research are outweighed by the sum of benefits to the prisoners and the importance of the knowledge to be gained.

(b) That the rights and welfare of the prisoners are adequately protected, including the security of any confidential personal information.

(c) That the procedures for selection of prisoners are equitable and that subjects are not unjustly deprived of the opportunity to participate.

(d) That adequate provisions have been made for compensating research related injury.

(e) That the rate of remuneration is comparable to that received by nonprisoner volunteers in similar research.

(f) That the conduct of the activity will be reviewed at timely intervals.

(g) That legally effective informed consent will be obtained by adequate and appropriate methods.

3516. No biomedical or behavioral research shall be conducted on any prisoner in this state in the absence of a determination by the board consistent with this title.

3517. The board shall promulgate rules and regulations reasonably necessary for the effective administration of the provisions of this title. Action on proposals submitted shall be taken

within 60 days.

3518. The board shall promulgate rules and regulations prescribing procedures to be followed by any person who has a grievance concerning the operation of any particular research program conducted pursuant to this title.

3519. The board shall evaluate the impact of research on human subjects approved and conducted pursuant to this title, including any adverse reactions.

3520. The board shall make a biannual report containing a review of each research program which has been approved and conducted. The report shall be transmitted to the Legislature and shall be made available to the public.

CHAPTER 4. PRISONERS' RIGHTS AS RESEARCH SUBJECTS

3521. For the purposes of this title, a prisoner shall be deemed to have given his informed consent only if each of the following conditions are satisfied:

(a) Consent is given without duress, coercion, fraud, or undue influence.

(b) The prisoner is informed in writing of the potential risks or benefits, or both, of the proposed research.

(c) The prisoner is informed orally and in writing in the language in which the subject is fluent of each of the following:

(1) An explanation of the biomedical or behavioral research procedures to be followed and their purposes, including identification of any procedures which are experimental.

(2) A description of all known attendant discomfort and risks reasonably to be expected.

(3) A disclosure of any appropriate alternative biomedical or behavioral research procedures that might be advantageous for the subject.

(4) The nature of the information sought to be gained by the experiment.

(5) The expected recovery time of the subject after completion of the experiment.

(6) An offer to answer any inquiries concerning the applicable biomedical or behavioral research procedures.

(7) An instruction that the person is free to withdraw his consent and to discontinue participation in the research at any time without prejudice to the subject.

3522. At the time of furnishing a prisoner the writing required by subdivision (b) of Section 3521, the prisoner shall also be given information as to (a) the amount of remuneration the prisoner will receive for the research and (b) the manner in which the prisoner may obtain prompt treatment for any research-related injuries. Such information shall be provided in writing on a form to be retained by the prisoner.

3523. The amount of such remuneration shall be comparable to

that which is paid to nonprisoner volunteers in similar research.

CHAPTER 5. REMEDIES

3524. (a) A prisoner may maintain an action for injury to such prisoner, including physical or mental injury, or both, caused by the wrongful or negligent act of a person during the course of the prisoner's participation in biomedical or behavioral research conducted pursuant to this title.

(b) In any action pursuant to this section, such damages may be awarded as under all of the circumstances of the case may be just.

(c) When the death of a prisoner is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or if dead, such person's personal representatives.

(d) If an action arising out of the same wrongful act or neglect may be maintained pursuant to subdivision (c) for wrongful death to any such prisoner, the action authorized by subdivision (a) shall be consolidated therewith for trial on motion of any interested party.

(e) For the purposes of this section, "heirs" mean only the following:

(1) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of Division 2 (commencing with Section 200) of the Probate Code, and

(2) Whether or not qualified under paragraph (1), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, and parents. As used in this paragraph, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

CHAPTER 1251

An act to add and repeal Sections 56601.1, 56700.5, 78601.1, and 78701.5 of, the Education Code, relating to special education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Section 56601.1 is added to the Education Code, to read:

56601.1. Notwithstanding Sections 41886, 56031, and 56600 to 56619, inclusive, from the effective date of the chapter enacting this section until January 1, 1981, autistic pupils enrolled in a public or

private nonsectarian school, institution, or agency, shall, for funding purposes, be categorized in the special education category of physically handicapped, in accordance with provisions set forth in Sections 41863, 41882, and 56700 to 56752, inclusive.

Allowances shall be computed pursuant to the formula contained in Section 41882 by the following amount of the particular level and category:

Category	Elementary grades (K–8)	High school grades (9–12)
Physically handicapped		
Class size maximum of 6 (autistic)	$4,500	$4,315

The provisions of this section shall in no way conflict with the intent of the California Master Plan for Special Education programs set forth in Sections 56300 to 56367, inclusive.

This section shall remain in effect only until January 1, 1981, and as of that date is repealed.

SEC. 2. Section 56700.5 is added to the Education Code, to read:

56700.5. The education of physically handicapped pupils who are diagnosed as being autistic shall be provided all eligible pupils between 6 and 21 years of age, and may be provided eligible pupils between the ages of 3 and 6 years, in the manner set forth in this chapter.

This section shall remain in effect only until January 1, 1981, and as of that date is repealed.

SEC. 3. Section 78601.1 is added to the Education Code, to read:

78601.1. Notwithstanding Sections 78600 to 78617, inclusive, and 84836, from the effective date of the chapter enacting this section until January 1, 1981, autistic pupils enrolled in a public or private nonsectarian school, institution, or agency, shall, for funding purposes, be categorized in the special education category of physically handicapped, in accordance with provisions set forth in Sections 78700 to 78726, inclusive, 79130 to 79132, inclusive, 84817 and 84832.

Allowances shall be computed pursuant to the formula contained in Section 84832 by the following amount of the particular level and category:

Category	Community college grades (13–14)
Physically handicapped	
Class size maximum of 6 (autistic)	$4,245

This section shall remain in effect only until January 1, 1981, and as of that date is repealed.

SEC. 4. Section 78701.5 is added to the Education Code, to read:

78701.5. The education of physically handicapped students who

are diagnosed as being autistic shall be provided all eligible students between 6 and 21 years of age, and may be provided eligible students between the ages of 3 and 6 years, in the manner set forth in this chapter.

This section shall remain in effect only until January 1, 1981, and as of that date is repealed.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desires legislative authority to carry out the program specified in this act.

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

Chapter 321 of the Statutes of 1976, effective July 2, 1976, failed to provide sufficient ability to fund at the local level to operate classes for autistic pupils who require greater adult-pupil ratio than most special education programs. Federal legislation, PL 94-142, refers to autistic as physically handicapped and state mandates should be consistent with federal guidelines.

CHAPTER 1252

An act to amend Sections 555, 650, 1202, 1207, 1208, 1210, 1212, 1220, 1221, 1222, 1224, 1242, 1260, 1261, 1261.5, 1262, 1263, 1264, 1265, 1269, 1270, 1300, 1320, 1321, 1601, 2100, 2541.3, 2541.6, 2728, 2728.5, 2830, 3010 of Chapter 1189 of the Statutes of 1976, 3148, 4000 of Chapter 1189 of the Statutes of 1976, 4035, 4047, 4160, 4227, 4800 of Chapter 1188 of the Statutes of 1976, 7311, 9001 of Chapter 1188 of the Statutes of 1976, and 23007 of the Business and Professions Code; to amend Sections 224m, 224p, 224q, 225p, 226, 226a, 226b, 226c, 226.1, 226.2, 226.3, 226.4, 226.5, 226.55, 226.6, 226.7, 226.8, 226.9, 226.10, 226.11, 227, 227aaa, 227b, 227p, and 232 of the Civil Code; to amend Sections 8242, 8248, 45209, 56614, 69275, 69276, 78613, 88209, 94312, and 94315 of the Education Code; to amend Sections 4011, 5671, 5672, and 5674 of the Fish and Game Code; to amend Sections 6021, 41302, 41331, 41332, and 41581 of the Food and Agriculture Code; to amend Sections 1322, 6253, 11012, 11200, 11202, 11501, 11550.5, 11552, 12803, 15702.1, 29873, and 29874 of, and to add Sections 12803.5 and 12803.8 to, the Government Code; to amend Sections 20, 21, 22, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 200, 205, 208, 214, 249, 249.2, 249.3, 249.4, 258, 259, 261, 265, 266, 269, 283.4, 284, 290, 300, 303.5, 304, 306, 306.5, 308.5, 308.8, 311, 320.2, 325, 326, 341, 343, 344, 346, 350, 351, 354, 374, 382, 384, 400, 405, 410, 416, 416.10, 416.12, 416.13, 416.14, 416.15, 416.16, 416.9, 416.95, 417.7, 417.8, 417.9, 418, 418.1, 420, 425, 427.3, 428, 429,

429.11, 429.30, 429.40, 429.41, 429.50, 431, 432.2, 432.9, 433, 434, 435.2, 435.7, 436.2, 436.45, 436.50, 436.51, 436.52, 436.53, 436.57, 436.58, 436.59, 436.60, 436.61, 436.62, 436.63, 437.7, 452, 541, 551, 1101, 1102, 1110, 1110.5, 1111, 1112, 1113, 1130, 1140, 1142, 1143, 1144, 1153, 1155, 1155.5, 1155.6, 1156, 1157, 1176, 1185, 1185.1, 1186, 1187.1, 1204, 1210, 1213, 1236, 1237, 1260, 1283, 1343, 1347, 1367, 1380, 1457, 1481.2, 1494, 1502, 1600.6, 1651, 1685, 1686, 1701, 1725, 1727, 1760, 1760.6, 2283.5, 2950, 3110, 3226, 3296, 3315, 3316, 3380, 3382, 3387, 3400, 3402, 3407, 3500, 3701, 3751, 3801, 3901, 4008, 4051, 4403, 4457, 4463, 4470.1, 4470.4, 4471, 5474.29, 5474.30, 10001, 10025, 10066, 10439, 18897.2, 18897.6, 18897.7, 24101, 24156, 24159, 24201, 24209, 24222, 25111, 25112, 25174, 25600, 25600.5, 25661, 25663, 25771, 25896, 25990.5, 26007, 26008, 27000, 27002, 27010, 27041, 28127, 28149, 28180, 28211, 28214, 28322, 28360, 28380, 28451, 28452, 28616.1, 28694.5, 28700, 28716, 28742, 28863, 32127.2, 32201, 32354, 34700, 34702, 34705 and 34709 of, to add Sections 103.5 and 437.01 to, to add Part 1.95 (commencing with Section 446) to Division 1 of, to add Chapter 10 (commencing with Section 1770) to Division 2 of, to add Division 10.5 (commencing with Section 11750) to, to repeal Section 212 of, to repeal Chapter 12 (commencing with Section 11640) of Division 10 of, and to repeal Division 25 (commencing with Section 38000) of, the Health and Safety Code; to amend Sections 11501, 11502, 11503, and 11505 of the Insurance Code; to amend Section 1690.1 of the Labor Code; to amend Sections 72, 830.3, 830.4, 1370.1, 2684, and 2960 of the Penal Code; to amend Sections 1435.6, 1435.7, 1440.3, 1461.3, 1535, 1554, and 1558 of the Probate Code; to amend Sections 7057, 17061, 17226, 19268, 19502.5, and 24372 of the Revenue and Taxation Code; to amend Sections 301, 301.6, 301.7, 303, 305.6, 409, 409.1, 410, 412, 605.5, 821.3, 1087, 1095, 1258.5, 1259, 1282, 1330, 1332, 1332.5, 1338, 1381, 1501, 1536, 1558.5, 1585, 1585.5, 1586, 1587, 1589, 1601, 2110, 2110.3, 2111, 2602, 2657, 2707.2, 2707.4, 2707.5, 2714, 2742, 2902, 3009, 3010, 3012, 3013, 3014, 3125, 3125.5, 3126, 3128, 3129, 3252, 3260, 3265, 3266, 3269, 3654.1, 3654.2, 3654.3, 3654.4, 3656, 4656, 5007.5, 5202, and 5309 of, to amend the heading of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1 of, to add Sections 133.5 and 134.1 to, and to repeal Sections 303.5, 305.1, 306.1, 310.1, 311.3, 311.5, 312.1, 314, 319, 320.1, 321.1, 322.1, 701.5, 801.5, 907, 1701.5, 3267.1, and 3268.1 of, the Unemployment Insurance Code; to amend Sections 13521, 13522, 13523, 13528, 13540, 13755, 13800, 13858, 13861, 13862, 13864, 13868, 13868.1, 13868.3, 13868.5, 13903, 13904, and 22264 of the Water Code; to amend Sections 600.5, 727, 1756, 3003, 3300, 4001, 4004, 4006, 4008, 4010, 4011, 4012, 4012.5, 4014.5, 4015, 4021, 4022, 4023, 4024, 4100, 4101, 4104, 4108.1, 4109, 4110, 4111, 4114, 4117, 4118, 4119, 4120, 4121, 4122, 4123, 4124, 4125, 4126, 4127, 4133, 4134, 4135, 4200, 4202, 4202.5, 4301, 4302, 4304, 4305, 4308, 4314, 5008, 5008.1, 5119, 5150, 5170, 5174, 5202, 5253, 5263, 5304, 5325, 5326, 5326.1, 5326.15, 5326.3, 5326.8, 5326.9, 5326.91, 5326.95, 5328, 5329, 5331, 5352.5, 5355, 5358, 5366, 5366.1, 5369.1, 5400, 5401, 5402, 5402.1, 5403, 5404, 5404.1, 5601, 5602, 5604, 5607, 5609, 5650, 5651, 5652, 5655, 5655.1, 5661, 5662, 5664, 5700.1,

5700.2, 5700.3, 5701, 5702, 5702.1, 5703, 5703.1, 5704, 5705.5, 5708, 5712, 5714, 5714.1, 5715, 5715.5, 5718, 5719, 5719.1, 5750, 5751, 5751.1, 5751.3, 5755, 5755.6, 5757, 5758, 5759, 5760, 5761, 5762, 5763, 5764, 5766, 6000, 6002, 6007, 6254, 6324, 6327, 6500, 6500.1, 6502, 6509, 6551, 6718, 6750, 7100, 7200, 7201, 7205, 7206, 7207, 7226, 7228, 7250, 7252, 7254, 7276, 7277, 7281, 7282, 7283, 7284, 7285, 7286, 7287, 7288, 7289, 7290, 7292, 7293, 7294, 7300, 7301, 7302, 7303, 7304, 7305, 7325, 7328, 7329, 7352, 7354, 7355, 7356, 7357, 7359, 7362, 7500, 7502, 7504, 7506, 7507, 7509, 7513, 7514, 7515, 7518, 8007, 8050, 8051, 8053, 8104, 8105, 8200, 8250, 9310, 10020, 10051, 10052, 10053, 10053.2, 10053.3, 10053.5, 10053.6, 10053.7 of Chapter 1212 of the Statutes of 1973, 10053.8, 10054, 10055, 10056, 10060, 10062, 10550, 10551, 10552.5, 10553, 10554, 10557, 10559, 10560, 10600, 10600.2, 10600.3, 10602, 10603, 10603.3, 10604, 10605, 10608, 10609, 10610, 10611, 10613, 10616, 10617, 10652, 10700, 10705, 10800, 10802, 10804.1, 10805, 10806, 10809, 10809.5, 10810, 10813.1, 10850, 10851.5, 10905, 10906, 10950, 10953, 11006.9, 11205, 11209, 11250, 11251, 11300, 11301, 11306, 11307, 11403, 11450.6, 11457, 11475, 11475.1, 11475.2, 11477, 11478.5, 12252, 12253, 12301.5, 12302, 12303, 12303.7, 12304, 13911, 13913, 14001, 14016, 14017, 14024, 14061, 14062, 14100.1, 14101, 14101.5, 14104.3, 14105, 14105.5, 14110, 14110.5, 14120, 14122, 14124.1, 14124.2, 14124.5, 14124.6, 14124.70, 14133, 14133.5, 14142, 14150, 14153, 14157, 14161, 14180, 14193, 14201, 14251, 14259, 14260, 14300, 14309, 14310, 14312, 14450, 14452, 14458, 14476, 14477, 14500, 15153.5, 15200.1, 15200.2, 15510, 16100, 16141, 16500, 16552, 16557, 18276, 18279, 18376, 18377, 18454, 18951 of Chapter 309 of the Statutes of 1974, 18952 of Chapter 309 of the Statutes of 1974, and 19300 of, to amend the heading of Division 4 (commencing with Section 4001) of, to amend the heading of Part 1 (commencing with Section 4001) of Division 4 of, to amend the heading of Chapter 2 (commencing with Section 4100) of Part 1 of Division 4 of, to amend the heading of Article 1 (commencing with Section 4100) of Chapter 2 of Part 1 of Division 4 of, to amend the heading of Article 2 (commencing with Section 4200) of Chapter 2 of Part 1 of Division 4 of, to amend the heading of Article 3 (commencing with Section 4300) of Chapter 2 of Part 1 of Division 4 of, to amend the heading of Chapter 4 (commencing with Section 7500) of Division 7 of, to amend the heading of Chapter 6 (commencing with Section 8250) of Division 8 of, to amend the heading of Chapter 2 (commencing with Section 10550) of Part 2 of Division 9 of, to amend the heading of Chapter 3 (commencing with Section 10700) of Part 2 of Division 9 of, to amend and renumber Sections 4020, 4105, 4107, 4107.1, 4108, 4108.2, and 10053.7 of, to amend and renumber the heading of Article 4.2 (commencing with Section 14131) of Chapter 7 of Part 3 of Division 9 of, to add Sections 21, 4000, 4002, 4003, 4005, 4005.1, 4005.2, 4005.3, 4005.4, 7352.5, 7354.5, 10053.85, 10600.1, 14053, 14064, and 14065 to, to add Division 4.1 (commencing with Section 4400) to, to add Division 4.5 (commencing with Section 4500) to, and to add Chapter 3.5 (commencing with Section 10720) to Part 2 of Division 9 of, to repeal Sections 21, 4002, 4003, 7204, 10544.3, 10553.1, 10554.1, 10554.2, 10600.1,

10602.1, 10603.1, 10604.1, 10605.1, 10606.1, 10607.1, 10609.1, 10613.1, 10806.1, 10905.1, 11209.1, 11251.1, 14053, 14102, 14103, 14103.1, 14190, 15156, 16503, and 18200.1 of, to repeal the heading of Chapter 1 (commencing with Section 4001) of Part 1 of Division 4 of, to repeal Chapter 3 (commencing with Section 4330) of Part 1 of Division 4 of, to repeal Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5900) of Division 5 of, to repeal Chapter 4 (commencing with Section 16300) of Part 4 of Division 9 of, to repeal Chapter 6 (commencing with Section 16575) of Part 4 of Division 9 of, and to repeal Division 11 (commencing with Section 19900) of, the Welfare and Institutions Code, relating to reorganization of the executive branch of California state government.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977.]

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

SECTION 1. The State of California has established numerous programs designed to maintain and improve the physical and mental health and social well-being of its citizens. Many of these are conducted in partnership with federal and local governments. Together, these human service programs represent an ever-increasing proportion of both national and local level public expenditures.

In an attempt to more effectively administer these complex and interrelated programs, the State of California created a consolidated State Department of Health on July 1, 1973. After observing over three years of operations under a single department, the Legislature finds that most if not all of the intended benefits of such a department have not been realized.

Not only has administrative effectiveness not improved, but several programs have been adversely affected by confused leadership and deficient policy direction under the combined department. Most importantly, however, it has become increasingly difficult for both the Legislature and the people to identify those portions of the department responsible for specific functions and to hold them accountable for their performance.

To increase individual program visibility, to improve program policy direction, and to provide needed public accountability, the Legislature finds that it is necessary to separate the major functional areas of the State Department of Health into distinct departments with leadership more directly responsible to the Governor and the Legislature. The Legislature recognizes that a need remains for coordinated planning and policy direction among the array of health programs, but finds that these functions can be better performed through a revised Office of the Secretary of the Health and Welfare Agency.

SEC. 1.1. The effective delivery and administration of human services is dependent upon a cooperative and mutually supportive partnership between state and county government. The Legislature recognizes that in order to meet the varied needs of individuals it may be desirable for counties to integrate more fully their human service programs.

It is the intent of the Legislature that the Secretary of the Health and Welfare Agency avoid allowing possible differences in organizational structure to hinder the state-county partnership, and that the secretary provide all possible assistance to those counties desiring to integrate further their human service programs. It is further the intent of the Legislature that the secretary assign to one of the deputy secretaries of the Health and Welfare Agency the specific responsibility for insuring that this assistance is provided.

SEC. 1.2. The Legislature recognizes the need to coordinate the management of the programs of the departments within the Health and Welfare Agency which serve children and youth. It is the intent of the Legislature that the Secretary of the Health and Welfare Agency assign to one of the agency deputy secretaries the specific responsibility to assist state departments and counties to coordinate programs serving children and youth.

SEC. 3. Section 555 of the Business and Professions Code is amended to read:

555. The State Department of Health Services shall:

(a) Enforce the provisions of this article.

(b) Promulgate rules and regulations necessary to carry out properly the provisions of this article.

(c) Print and publish any further advice and information concerning the dangers of ophthalmia neonatorum and the necessity for prompt and effective treatment thereof, as it deems necessary.

(d) Furnish without cost copies of this article to all physicians, midwives and such other persons as may be lawfully engaged in the practice of obstetrics or assisting at childbirths.

(e) Keep a proper record of any and all cases of ophthalmia neonatorum filed in its office in pursuance of this article, and as may come to its attention in any way, and such records shall constitute a part of the biennial report to the Governor and the Legislature.

(f) Report any and all violations of this article as may come to its attention to the district attorney of the county wherein any violation of any provision of this article has been committed, for the purpose of prosecution.

SEC. 4. Section 650 of the Business and Professions Code is amended to read:

650. Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code the offer, delivery, receipt or acceptance, by any person licensed under this division of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring

patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom such patients, clients or customers are referred is unlawful.

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Section 654.1 it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic, or health care facility solely because such licensee has a proprietary interest or coownership in such laboratory, pharmacy, clinic, or health care facility; but such referral shall be unlawful if the prosecutor proves that there was no valid medical need for such referral.

"Health care facility" means a hospital, nursing home, medical care facility, or private mental institution licensed by the State Department of Health Services.

SEC. 5. Section 1202 of the Business and Professions Code is amended to read:

1202. As used in this chapter, "department" means the State Department of Health Services.

SEC. 6. Section 1207 of the Business and Professions Code is amended to read:

1207. As used in this chapter, "clinical chemist" or "clinical microbiologist," as defined by the department, means any person licensed to engage in the work and supervision of clinical laboratory activities limited to his area of specialization or to engage in the work and direction of a laboratory providing service only within the area of specialization covered by his license.

SEC. 7. Section 1208 of the Business and Professions Code is amended to read:

1208. For the purposes of this chapter, the department shall define those fields included in each specialty and limited area for which a license is issued.

SEC. 8. Section 1210 of the Business and Professions Code is amended to read:

1210. As used in this chapter, "clinical chemist technologist," "clinical microbiologist technologist," and "clinical toxicologist technologist," or "other equivalent technologist" as defined by the department, means any person, other than those licensed to engage in the work and direction of laboratories as defined or licensed as a clinical laboratory technologist or trainee who is licensed to perform technical procedures limited to the science for which he is licensed under the direction of a person authorized to direct a laboratory under the provisions of this chapter.

SEC. 9. Section 1212 of the Business and Professions Code is amended to read:

1212. As used in this chapter, "unlicensed laboratory personnel" means individuals who may perform such functions as provided for by regulations of the department and under supervision as provided by regulations of the department.

SEC. 10. Section 1220 of the Business and Professions Code is amended to read:

1220. The department shall by regulation require that all licensed clinical laboratories maintain records, equipment, and facilities which are adequate and appropriate for the services rendered and demonstrate satisfactory performance in a proficiency testing program approved by the department. In addition, the department shall by regulation require that all licensed clinical laboratories be conducted, maintained, and operated without injury to the public health.

SEC. 11. Section 1221 of the Business and Professions Code is amended to read:

1221. The department may employ special examiners, and the department may make regulations for the conduct of examinations under this chapter.

SEC. 12. Section 1222 of the Business and Professions Code is amended to read:

1222. The department may approve schools seeking to provide instruction in clinical laboratory technic which in the judgment of the department will provide instruction adequate to prepare individuals to meet the requirements for licensure or performance of duties under this chapter and regulations of the department. The department shall establish by regulation the ratio of licensed clinical laboratory technologists to licensed trainees on the staff of the laboratory approved as a school and the minimum requirements for training in any specialty or in the entire field of clinical laboratory technology. Application for approval shall be made on forms provided by the department.

SEC. 13. Section 1224 of the Business and Professions Code is amended to read:

1224. The department shall make such regulations as may be necessary for the administration and enforcement of this chapter.

SEC. 14. Section 1242 of the Business and Professions Code is amended to read:

1242. Any person duly licensed under the provisions of this chapter to perform tests called for in a clinical laboratory may perform arterial puncture, venipuncture, or skin puncture for purposes of withdrawing blood or for test purposes as defined by regulations established by the department and upon specific authorization from any person in accordance with the authority granted under any provisions of law relating to the healing arts. The department may by regulation authorize unlicensed laboratory personnel to perform venipuncture or skin puncture for the purposes of withdrawing blood or for test purposes as defined by regulations established by the department and shall establish the minimum training required for such persons.

SEC. 15. Section 1260 of the Business and Professions Code is amended to read:

1260. The department shall issue a clinical laboratory bioanalyst's

license to each person who is a lawful holder of a degree of master of arts, master of science, or an equivalent or higher degree as determined by the department with a major in one of the biological sciences. Such education shall have been obtained in one or more established and reputable institutions maintaining standards equivalent, as determined by the department, to those institutions accredited by the Western Association of Schools and Colleges or an essentially equivalent accrediting agency, as determined by the department. The applicant also shall have a minimum of four years' experience as a licensed clinical laboratory technologist, performing clinical laboratory work embracing the various fields of clinical laboratory activity in a clinical laboratory approved by the department. The quality and variety of this experience shall be satisfactory to the department and shall have been obtained within the six-year period immediately antecedent to admission to the examination. The department shall determine by written, oral, and practical examination that the applicant is properly qualified. The department shall establish by regulation the required courses to be included in the college or university training.

SEC. 16. Section 1261 of the Business and Professions Code is amended to read:

1261. The department shall issue a clinical laboratory or limited technologist's license to each person who is a lawful holder of a baccalaureate or an equivalent or higher degree, who has applied for such license on forms provided by the department and has met the requirements of this chapter and such reasonable qualifications as are established by regulations of the department. However, an exception to the degree requirement may be made by the department for the clinical laboratory technologist's license only if the applicant for such license has completed a minimum of two years of experience as a licensed trainee or the equivalent thereof, as determined by the department, doing clinical laboratory work embracing the various fields of clinical laboratory activity in a clinical laboratory approved by the department. In addition, the applicant applying under this section must have 90 semester hours or equivalent quarter hours of university or college work or the equivalent thereof, as may be determined by the department, which shall have included at least 23 semester hours or equivalent quarter hours of science courses as specified by regulations of the department. Additional college or university work which includes courses in the fundamental sciences may be substituted for one of the two years of experience in the ratio of 30 semester hours or equivalent quarter hours for each year of experience. This exception shall not apply to the limited technologist's license. The department shall hold examinations to aid it in judging the qualifications of applicants. Licenses may be issued in any or all of the sciences applied in a clinical laboratory as determined by regulation established by the department. The department shall establish by regulation the college courses or majors to be included in the college

or university training and the amount and kind of training or experience required. Examinations, training, or experience requirements for limited licenses shall cover only the science concerned. The department may establish by regulation the various technologist sciences and shall establish the minimum requirements for training and experience and required courses or major for each.

Experience as a clinical laboratory technologist in any branch of the armed forces of the United States may be considered equivalent to the experience as a trainee, if such experience is approved by the department. Each year of training and experience as a clinical laboratory technologist in such armed forces shall be equivalent to 15 semester hours, which shall be credited to the minimum number of hours required to qualify for licensure as a trainee. The semester hours acquired in this manner shall not consist of the science courses required by the department under this section. The maximum number of hours granted shall not exceed 60 semester hours or its equivalent.

SEC. 17. Section 1261.5 of the Business and Professions Code is amended to read:

1261.5. The department may issue clinical laboratory technologist's licenses limited to the fields of toxicology, clinical chemistry, clinical microbiology, or immunohematology.

To qualify for admission to the examination for a special clinical laboratory technologist's license, an applicant shall have all the following:

(a) Have graduated from a college or university maintaining standards equivalent, as determined by the department, to those institutions accredited by the Western Association of Schools and Colleges or an essentially equivalent accrediting agency with a baccalaureate or higher degree with a major appropriate to the field for which a license is being sought.

(b) Have one year of full-time postgraduate training or experience in the various areas of analysis in the field for which a license is being sought in a laboratory which has a permit issued under this chapter or which the department determines is equivalent thereto.

The department shall adopt regulations to conform to this section.

SEC. 18. Section 1262 of the Business and Professions Code is amended to read:

1262. No clinical laboratory or limited technologist license shall be issued by the department except after examination; provided, that a temporary technologist's license may be issued to an individual who fulfills the requirements for admission to the examination unless the individual has failed a previous examination for such license. The department may issue licenses without examination to applicants who have passed examinations of the national accrediting boards whose requirements are equal to or greater than those required by this chapter and regulations established by the department. The department may issue licenses without further examination to

applicants who have passed examinations of another state whose laws and regulations are equal to or greater than those required by this chapter and regulations established by the department. The evaluation of national or state accrediting boards for the purposes of this chapter shall be carried out by the department with assistance of representatives from the licensed groups. This section shall not apply to persons who have passed an examination by a national board or another state examination prior to the establishment of requirements that are equal to or exceed those of this chapter or the regulations of the department. The department may, however, make exceptions if individuals are otherwise qualified.

SEC. 19. Section 1263 of the Business and Professions Code is amended to read:

1263. The department shall license as trainees those individuals desiring to train for either a clinical laboratory technologist's license or a limited technologist's license, providing such individuals meet the academic requirements.

No trainee license shall be issued unless the applicant has completed at least 90 semester hours or equivalent quarter hours of university or college work or the essential equivalent as determined by the department which must have included at least 23 semester hours or equivalent quarter hours of courses in the sciences as determined by regulations of the department. Applicants who have completed military training schools may be granted academic credit toward licensure by the department on the basis of recommendations made by the American Council on Education.

Applicants shall apply for such license on forms provided by the department and meet the requirements of this chapter and such standards as are established by regulations of the department. Trainees' licenses shall not be issued for a period in excess of two years after completion of the minimum practical training period in clinical laboratory work required for the trainee to qualify for the license being sought.

SEC. 20. Section 1264 of the Business and Professions Code is amended to read:

1264. The department shall issue a clinical chemist or clinical microbiologist license to each person who has applied for the license on forms provided by the department, who is a lawful holder of a master of science or doctoral degree in the specialty for which the applicant is seeking a license or who has met such additional reasonable qualifications of training, education, and experience as the department may establish by regulations.

Such graduate education shall have included 30 semester hours of coursework in the applicant's specialty. Applicants possessing only a master of science degree shall have the equivalent of one year of full-time, directed study or training in procedures and principles involved in the development, modification or evaluation of laboratory methods, including training in complex methods applicable to diagnostic laboratory work. Each applicant must have

had one year of training in his specialty in a clinical laboratory acceptable to the department and three years of experience in his specialty in a clinical laboratory, two years of which must have been at a supervisory level. The education shall have been obtained in one or more established and reputable institutions maintaining standards equivalent, as determined by the department, to those institutions accredited by an agency acceptable to the department. The department shall determine by examination that the applicant is properly qualified. Examinations, training, or experience requirements for specialty licenses shall cover only the specialty concerned.

The department may issue licenses without examination to applicants who have passed examinations of other states or national accrediting boards whose requirements are equal to or greater than those required by this chapter and regulations established by the department. The evaluation of other state requirements or requirements of national accrediting boards shall be carried out by the department with the assistance of representatives from the licensed groups. This section shall not apply to persons who have passed an examination by another state or national accrediting board prior to the establishment of requirements that are equal to or exceed those of this chapter or regulations of the department.

SEC. 21. Section 1265 of the Business and Professions Code is amended to read:

1265. The department shall issue a clinical laboratory license to any person who has applied for such license on forms provided by the department and who is found to be in compliance with the provisions of this chapter and regulations pertaining thereto. The application shall include the name or names of the owner or the owners, the name or names of the director or directors, and the name and location of the laboratory, and such other information as may be required by the department. Application shall be made by the owner of the laboratory and the director prior to its opening. A license to conduct a clinical laboratory where the owner is not the director shall be issued jointly to the owner and the director and the license shall include such information as may be required by the department. The owners and directors shall be severally and jointly responsible to the department for the maintenance and conduct thereof or for any violations of the provisions of this chapter and regulations pertaining thereto. The department shall not issue a permit until it is satisfied that the clinical laboratory will be operated within the spirit and intent of this chapter, that the owner and director are each of good moral character, and that the granting of such permit will not be in conflict with the interests of public health. A separate license shall be obtained for each laboratory as defined by regulations of the department and the department shall be notified within 15 days of any change in location. The department shall establish by regulation the minimum requirements to be fulfilled by those seeking a clinical laboratory license. A license shall be

automatically revoked in 30 days if there is a major change of directorship or ownership of the laboratory as determined by the department. The license shall be valid for the calendar year or remainder thereof for which it is issued unless revoked or suspended. If the department does not within 60 days after the date of receipt of the application issue a license, it shall state the grounds and reasons for its refusal in writing, serving a copy upon the applicant by certified mail addressed to the applicant at his last known address.

SEC. 22. Section 1269 of the Business and Professions Code is amended to read:

1269. The department shall establish by regulation the limited laboratory activities in which unlicensed laboratory personnel including, but not limited to, laboratory aides, cardiopulmonary technicians, and isotope technicians, working in clinical laboratories may engage and shall establish the extent of supervision required and the minimum qualifications to be met by such persons. Persons engaged in such activities shall do so only under the supervision of a licensed technologist, or person duly authorized to direct a laboratory, who is functioning as a technologist. Before such persons are permitted to perform tests, they shall satisfactorily demonstrate their ability to do so in accordance with procedures prescribed by the department.

SEC. 23. Section 1270 of the Business and Professions Code is amended to read:

1270. The department shall establish by regulation the limited laboratory activities in which cytotechnologists may engage and shall establish the extent of supervision required and the minimum qualifications to be met by such persons. Persons engaged in such activities shall do so only under the supervision of a licensed technologist, or person duly authorized to direct a laboratory, who is functioning as a technologist. Before such persons are permitted to perform tests, they shall satisfactorily demonstrate their ability to do so in accordance with procedures prescribed by the department.

SEC. 24. Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application and license fee under this chapter shall be as follows:

(a) The application fee for a clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license is twenty-five dollars ($25).

(b) The annual renewal fee for a clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license shall be fixed by the department at an amount not to exceed twenty-five dollars ($25).

(c) The application fee for a clinical laboratory technologist's or limited technologist's license is fifteen dollars ($15).

(d) The annual renewal fee for a clinical laboratory technologist's or limited technologist's license shall be fixed by the department at an amount not to exceed ten dollars ($10).

(e) The application fee for a clinical laboratory license is one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county or city and county, or an official thereof, no fee shall be required.

(f) The annual renewal fee for a clinical laboratory license shall be fixed by the department at an amount not to exceed one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county, or city and county, or official thereof, no fee shall be required.

(g) The application fee for a trainee's license is five dollars ($5).

(h) The annual renewal fee for a trainee's license is three dollars ($3).

(i) The application fee for a duplicate license is two dollars ($2).

(j) The delinquency fee is ten dollars ($10).

SEC. 25. Section 1320 of the Business and Professions Code is amended to read:

1320. Licenses issued by the department may be denied, revoked or suspended for any of the following reasons:

(a) Conduct involving moral turpitude or dishonest reporting of tests.

(b) Violation of any of the regulations of the department adopted pursuant to this chapter.

(c) Permitting a licensed trainee to perform tests or procure specimens unless under the direct and responsible supervision of a person duly licensed under this chapter or physician and surgeon other than another licensed trainee.

(d) Violation of any provision of the Business and Professions Code governing the practice of medicine and surgery.

(e) Proof that the holder has made false statements in material regard on his application for licensure or that he has used any degree or certificate as a means of qualifying for licensure which has been purchased or procured by barter or by any unlawful means or obtained from any institution which at the time said degree or certificate was obtained was not recognized or accredited by the department of education of the state where said institution is or was located to give training in the field of study in which the degree or certificate is claimed.

(f) The use of any degree, certificate, or title in any manner, which has been purchased or procured by barter or by any unlawful means or obtained from any institution which at the time said degree, certificate, or title was obtained was not recognized or accredited by the department of education of the state where said institution is or was located to give training in the field of study in which the degree, certificate, or title is claimed.

(g) Violation of any of the provisions of the premarital or prenatal laws or regulations pertaining thereto in Article 3 (commencing with Section 4300), Chapter 2, Title 1, Part 5, Division 4 of the Civil Code and in Article 1 (commencing with Section 1125), Group 4, Subchapter 1, Chapter 2, Part 1, Title 17 of the California

Administrative Code, or of the provisions of Article 2 (commencing with Section 3220), Chapter 4, Division 4 of the Health and Safety Code.

(h) The advertising of clinical laboratory procedures to the lay public in magazines, newspapers, directories, circulars, signs, etc., or any advertising which is false or misleading.

(i) Knowingly accepting an assignment for clinical laboratory tests or specimens from and the rendering a report thereon to persons not authorized by law to submit such specimens or assignments.

(j) Rendering a report on clinical laboratory work actually performed in another clinical laboratory without designating clearly the name of the laboratory in which the test was performed.

(k) Conviction of a felony or of any misdemeanor involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the practice of clinical laboratory technology. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(*l*) Violation of any of the provisions of this chapter.

(m) Unprofessional conduct.

(n) The use of drugs or alcoholic beverages to the extent or in such manner as to be dangerous to a person licensed under this chapter, or any other person to the extent that such use impairs the ability of the licensee to conduct with safety to the public the practice of clinical laboratory technology.

SEC. 26. Section 1321 of the Business and Professions Code is amended to read:

1321. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this article. The department may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment

SEC. 27. Section 1601 of the Business and Professions Code is amended to read:

1601. There is in the State Department of Health Services a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists and four public members.

SEC. 28. Section 2100 of the Business and Professions Code is amended to read:

2100. There is in the State Department of Health Services a Board of Medical Quality Assurance of the State of California which

consists of 19 members who shall be appointed by the Governor, subject to confirmation by the Senate, seven of whom shall be public members.

SEC. 29. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. The State Department of Health Services, the State Board of Optometry and the Board of Medical Examiners shall prepare and adopt quality standards and promulgate regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. Such regulations shall become operative July 1, 1976. In promulgating such rules and regulations, the department and the boards shall adopt the 1972 standards of the American National Standards Institute Z80.1 and Z80.2. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards which are more stringent than the 1972 standards of the American National Standard Institute Z80.1 and Z80.2.

No individual or group which deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device which does not meet the minimum standards set by the State Department of Health Services, the State Board of Optometry or the Board of Medical Examiners.

Any violation of the regulations promulgated by the State Department of Health Services, the State Board of Optometry or the Board of Medical Examiners pursuant to this section shall be a misdemeanor.

Any optometrist, ophthalmologist, or dispensing optician who violates the regulations promulgated by the State Department of Health Services, the State Board of Optometry or the Board of Medical Examiners pursuant to this section shall be subject to disciplinary action by his licensing board.

The State Board of Optometry or the board of Medical Examiners may send any prescription ophthalmic device to the Department of Health Services for testing as to whether or not such device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct such testing in its own facilities or may contract with any other facility to conduct such testing.

SEC. 30. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. Effective January 1, 1977, no prescription ophthalmic device which does not meet the standards promulgated by the State Department of Health Services, the State Board of Optometry or the Board of Medical Examiners under Section 2541.3 shall be purchased with state funds.

SEC. 32. Section 2728 of the Business and Professions Code is

amended to read:

2728. If adequate medical and nursing supervision by a professional nurse or nurses is provided, nursing service may be given by attendants or psychiatric technicians in institutions under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services or the Department of Corrections. Services so given by a psychiatric technician shall be limited to services which he is authorized to perform by his license as a psychiatric technician.

The Directors of Mental Health, Developmental Services, and Health Services shall determine what shall constitute adequate medical and nursing supervision in any institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services.

SEC. 33. Section 2728.5 of the Business and Professions Code is amended to read:

2728.5. Except for those provisions of law relating to directors of nursing services, nothing in this chapter or any other provision of law shall prevent the utilization of a licensed psychiatric technician in performing services used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or mentally retarded persons within the scope of practice for which he is licensed in facilities under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or licensed by the State Department of Health Services, that he is licensed to perform as a psychiatric technician, including any nursing services under Section 2728, in facilities under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services.

SEC. 34. Section 2830 of the Business and Professions Code is amended to read:

2830. Whenever a reference is made by the provisions of any statute to the certificates as registered nurses issued by the Bureau of Registration of Nurses or the State Department of Health Services, the reference shall be construed as referring also to the licenses of registered nurses issued under the provisions of this chapter.

SEC. 36. Section 3010 of the Business and Professions Code, as amended by Section 11 of Chapter 1189 of the 1976 Statutes, is amended to read:

3010. There is in the State Department of Health Services a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of nine members appointed by the Governor, three of whom shall be public members.

Six members of the board shall constitute a quorum.

SEC. 37. Section 3148 of the Business and Professions Code is amended to read:

3148. From each fee for the renewal of a certificate of registration for the renewal periods ending on January 31, 1962, and on January 31, 1963, respectively, there shall be paid the sum of eight dollars ($8), and from each fee for the renewal of a certificate of registration for each biennial renewal period ending on or before January 31, 1973, there shall be paid the sum of sixteen dollars ($16) and thereafter from each fee for the annual renewal of a certificate of registration there shall be paid the sum of eight dollars ($8) by the State Director of Health Services to the University of California.

This sum shall be used at and by the University of California solely for the advancement of optometrical research and the maintenance and support of the department at the university in which the science of optometry is taught.

The balance of each renewal fee shall be paid into the Optometry Fund.

SEC. 39. Section 4000 of the Business and Professions Code, as amended by Section 14 of Chapter 1189 of the Statutes of 1976, is amended to read:

4000. There is in the State Department of Health Services a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 10 members who shall be appointed by the Governor.

SEC. 41. Section 4035 of the Business and Professions Code is amended to read:

4035. Pharmacy is an area, place or premises in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" means and includes but is not limited to any area, place or premises described in a permit issued by the board by reference to plans filed with and approved by the board wherein narcotics or dangerous drugs or dangerous devices, as they are herein defined, are stored, possessed, prepared, manufactured, derived, compounded or repackaged, and from which said narcotics or dangerous drugs or dangerous devices are furnished, sold, or dispensed at retail.

"Pharmacy" shall not include any area in a facility licensed by the State Department of Health Services where floor supplies, ward supplies, operating room supplies, or emergency room supplies of drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

"Narcotics or dangerous drugs or dangerous devices" as used herein shall include but is not limited to all narcotics, drugs or devices which are included within one or more of the following classifications:

(a) Drugs or devices bearing the legend, "Caution, federal law prohibits dispensing without prescription," or words of similar import.

(b) Controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(c) Drugs or devices enumerated in Section 4211 of this code.

(d) Drugs or devices heretofore or hereafter classified as dangerous by the board pursuant to Sections 4061 and 4240 of this code.

(e) Poisons, hypodermic syringes and needles, or other drugs or devices, the sale of which is restricted by law to a registered pharmacist.

All pharmacies in existence on the effective date of this section shall comply with the provisions of this section within five years following the effective date thereof.

SEC. 42. Section 4047 of the Business and Professions Code is amended to read:

4047. As used in this chapter, "licensed or county hospital" means an institution, place, building, or agency which maintains and operates organized facilities for one or more persons for the diagnosis, care, and treatment of human illnesses to which persons may be admitted for overnight stay, and includes any institution classified under regulations issued by the State Department of Health Services as a general or specialized hospital, as a maternity hospital, or as a tuberculosis hospital, but does not include a sanatorium, rest home, a nursing or convalescent home, a maternity home, or an institution for treating alcoholics.

SEC. 43. Section 4160 of the Business and Professions Code is amended to read:

4160. "Poison" means and includes the compositions of the following schedules:

Schedule "A"

(a) Arsenic compounds and preparations.

(b) Cyanides and preparations, including hydrocyanic acid.

(c) Fluorides soluble in water, and preparations.

(d) Mercury compounds and preparations, except preparations made and labeled for external use only and containing not more than five-tenths percent (0.5%) total mercury, and except ointments or soaps containing not more than two percent (2.0%) total mercury or not more than ten percent (10.0%) ammonium mercuric chloride or mercuric oxide.

(e) Phosphorus and preparations.

(f) Thallium compounds and preparations.

(g) Aconite, belladonna, cantharides, cocculus, conium, digitalis, gelsemium, hyoscyamus, nux vomica, santonica, stramonium, strophanthus, veratrum, or their contained or derived active compounds and preparations, except preparations made and labeled for external use only, and except preparations containing not more than four-thousandths percent (0.004%) total belladonna alkaloids or not more than two-hundredths percent (0.02%) total nux vomica alkaloids, and except preparations in dosage forms each containing not more than two-tenths milligram (0.20 mg.) total belladonna

alkaloids or not more than one milligram (1.0 mg.) total nux vomica alkaloids.

(h) Zinc phosphide and preparations.

(i) Sodium fluoroacetate and preparations.

Schedule "B"

(a) Antimony, barium, copper, lead, silver or zinc compounds soluble in water, and preparations containing five percent (5.0%) or more of these compounds.

(b) Bromine or iodine and preparations.

(c) Hypochlorous acid, free or combined, and preparations that yield ten percent (10.0%) or more of available chlorine, excepting chloride of lime or bleaching powder.

(d) Permanganates soluble in water, and preparations containing five percent (5.0%) or more of these compounds.

(e) Nitric acid and preparations containing five percent (5.0%) or more of the free acid.

(f) Hydrochloric, hydrobromic or sulfuric acids, and preparations containing ten percent (10.0%) or more of the free acids.

(g) Oxalic acid or oxalates, and preparations containing ten percent (10.0%) or more of these compounds.

(h) Acetic acid and preparations containing twenty percent (20.0%) or more of the free acid.

(i) Potassium or sodium hydroxides, and preparations containing ten percent (10.0%) or more of the free alkalies.

(j) Ammonia solutions or ammonium hydroxide, and preparations containing five percent (5.0%) or more of free ammonia.

(k) Chloroform or ether, and preparations containing five percent (5.0%) or more of these compounds, except preparations made and labeled for external use only.

(*l*) Methyl alcohol or formaldehyde, and preparations containing one percent (1.0%) or more of these compounds, except when used as a preservative and not sold to the general public.

(m) Phenol or carbolic acid, cresols or other phenol derivatives, soluble in water, and preparations containing five percent (5.0%) or more of these compounds.

(n) Nitroglycerine and nitrites.

(o) Nicotine and preparations containing nicotine expressed as alkaloid more than two percent (2.0%).

(p) Ergot, cottonroot, pennyroyal and larkspur, or their contained or derived active compounds or mixtures thereof.

Schedule "C"

(a) Carbon tetrachloride.

(b) Camphorated oil.

(c) Boric acid.

Schedule "D"

(a) Toluene, any substance or material containing toluene, including but not limited to glue, cement, dope, paint thinners, paint, and any combination of hydrocarbons either alone or in combination with any substance or material including but not limited to paint, paint thinners, shellac thinners, and solvents which, when inhaled, ingested, or breathed, can cause a person to be under the influence of, or intoxicated from, any such combination of hydrocarbons.

(b) Any glue or cement containing a substance which the State Department of Health Services has determined by regulations adopted pursuant to the Administrative Procedure Act (Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11371), and Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code) has toxic qualities similar to toluene and should, in the interest of public safety, be subject to the provisions of this article.

Subdivisions (a) and (b) of Schedule "D" shall not apply to any glue or cement which has been certified by the State Department of Health Services as containing a substance which makes such glue or cement malodorous or causes such glue or cement to induce sneezing, nor shall subdivisions (a) and (b) of Schedule "D" apply where the glue or cement is sold, delivered, or given away simultaneously with or as part of a kit used for the construction of model airplanes, model boats, model automobiles, model trains, or other similar models

SEC. 44. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist or veterinarian.

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist or veterinarian or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board. The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this

subdivision shall be liable upon order of the board to surrender his personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health Services. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

SEC. 46. Section 4800 of the Business and Professions Code, as amended by Section 26 of Chapter 1188 of the 1976 Statutes, is amended to read:

4800. There is in the State Department of Health Services a Board of Examiners in Veterinary Medicine in which the administration of this chapter is vested. The board consists of six members appointed by the Governor, two of whom shall be public members.

SEC. 47. Section 7311 of the Business and Professions Code is amended to read:

7311. The board may adopt such rules governing sanitary conditions, and precautions to be employed as are reasonably necessary to prevent the creating or spreading of infectious or contagious diseases in cosmetological establishments, schools of cosmetology, in the practice of a cosmetologist, and in any branch of cosmetology. Such rules shall be adopted in accordance with the provisions of the Administrative Procedure Act, and shall be submitted to the State Department of Health Services, and approved by such department prior to filing with the Secretary of State. A copy of all such rules shall be furnished to each licensee.

SEC. 48. Section 9001 of the Business and Professions Code, as amended by Section 51.5 of Chapter 1188 of the Statutes of 1976, is amended to read:

9001. There is in the State Department of Health Services a Board of Behavioral Science Examiners which consists of 11 members appointed by the Governor with the advice and consent of the Senate.

SEC. 50. Section 23007 of the Business and Professions Code is amended to read:

23007. "Wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified

wine products and by whatever name and which does not contain more than 15 percent added flavoring, coloring, and blending material and which contains not more than 24 percent of alcohol by volume, and includes vermouth and sake, known as Japanese rice wine.

Nothing contained in this section affects or limits the power, authority, or duty of the State Department of Public Health in the enforcement of the laws directed toward preventing the manufacture, production, sale, or transportation of adulterated, misbranded, or mislabeled alcoholic beverages, and the definition of "wine" contained in this section is limited strictly to the purposes of this division and does not extend to, or repeal by implication, any law preventing the production, manufacture, sale, or transportation of adulterated, misbranded, or mislabeled alcoholic beverages.

SEC. 51. Section 224m of the Civil Code is amended to read:

224m. The father or mother may relinquish a child to a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of an organization licensed by the State Department of Social Services to find homes for children and place children in homes for adoption. Such relinquishment, when reciting that the person making it is entitled to the sole custody of the minor, shall, when duly acknowledged before such officer, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to relinquish.

A parent who is a minor shall have the right to relinquish his or her child for adoption to a licensed adoption agency and such relinquishment shall not be subject to revocation by reason of such minority.

In cases where a father or mother of a child resides outside the State of California and such child is being cared for and is placed for adoption by an organization licensed by the State Department of Social Services to place children for adoption, such father or mother may relinquish the child to that organization by a written statement signed by such father or mother before a notary on a form prescribed by the organization, and previously signed by an authorized official of the organization, which signifies the willingness of such organization to accept the relinquishment.

The relinquishment authorized by this section shall be of no effect whatsoever until a certified copy is filed with the State Department of Social Services, after which it is final and binding and may be rescinded only by the mutual consent of the adoption agency and the parent or parents relinquishing the child.

SEC. 52. Section 224p of the Civil Code is amended to read:

224p. Any person or organization that, without holding a valid and unrevoked license or permit to place children for adoption issued by the State Department of Social Services, advertises in any periodical or newspaper, by radio, or other public medium, that he or it will place children for adoption, or accept, supply, provide or

obtain children for adoption, or that causes any advertisement to be published in or by any public medium soliciting, requesting, or asking for any child or children for adoption is guilty of a misdemeanor.

SEC. 53. Section 224q of the Civil Code is amended to read:

224q. Any person other than a parent or any organization, association, or corporation that, without holding a valid and unrevoked license or permit to place children for adoption issued by the State Department of Social Services, places any child for adoption is guilty of a misdemeanor.

SEC. 54. Section 225p of the Civil Code is amended to read:

225p. Whenever a petition is filed for the adoption of a child who has been placed for adoption by a licensed county adoption agency or the State Department of Social Services, the county adoption agency or the State Department of Social Services may, at the time of filing a favorable report in the superior court, require the persons petitioning to become the adoptive parents to pay to the county agency, as agent of the state or the State Department of Social Services, a fee of five hundred dollars ($500). The county adoption agency or the State Department of Social Services may defer, waive or reduce the fee when its payment would cause economic hardship to the adoptive parents detrimental to the welfare of the adopted child, or if necessary for the placement of a hard-to-place child. A "hard-to-place" child is a child who because of his age, ethnic background, race, color, language, or physical, mental, emotional or medical handicaps has become difficult to place in an adoptive home.

Nothing in this section shall be construed to require the payment of such fee to a county in the case of an adoption resulting from the independent placement of a child.

SEC. 55. Section 226 of the Civil Code is amended to read:

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Services at Sacramento in writing of the pendency of the action and of any subsequent action taken. In all cases in which consent is required, except in the case of an adoption by a stepparent where one natural or adoptive parent retains his or her custody and control of the child, unless an agency licensed by the State Department of Social Services to find homes for children and place children in homes for adoption joins in the petition for adoption, the petition shall contain an allegation that the petitioners will file promptly with the department or the county adoption agency information required by the department in the investigation of the proposed adoption. The omission of such allegation from a petition so filed shall not, however, affect the jurisdiction of the court to proceed, nor shall it have heretofore affected the jurisdiction of any court to have proceeded, upon such petition omitting such allegation, in any manner provided in this chapter or otherwise, nor shall such omission have affected or affect the validity of any decree

of adoption or other order heretofore or hereafter made by any court with respect to such petition omitting such allegation.

The caption of the petition for adoption of a minor shall contain the name or names of the petitioners but shall not contain the name of the minor. The petition shall contain the sex and date of birth of the minor. The name that the minor had prior to adoption shall appear in the petition or, in the case where a licensed adoption agency joins in the petition, the name may appear in the joinder signed by the adoption agency. The decree of adoption shall contain the adopted name of the minor but shall not contain the name that the minor had prior to adoption.

SEC. 56. Section 226a of the Civil Code is amended to read:

226a. Once given, consent of the natural parents to the adoption of the child by the person or persons to whose adoption of the child the consent was given, may not be withdrawn except with court approval. Request for such approval may be made by motion, or a natural parent seeking to withdraw such consent may file with the clerk of the superior court where the petition is pending, a petition for approval of withdrawal thereof, without the necessity of payment of any fee for the filing of such petition. The petition shall be in writing, and shall set forth the reasons for withdrawal of consent, but otherwise may be in any form.

The clerk of the court shall set the matter for hearing, and shall give notice thereof to the State Department of Social Services, to the persons to whose adoption of the child the consent was given, and to the natural parent or parents by certified mail to the address of each as shown in the proceeding, at least 10 days before the time set for hearing.

The State Department of Social Services or the licensed county adoption agency shall, prior to the hearing of the motion or petition for withdrawal, file a full report with the court and shall appear at the hearing to represent the interests of the child.

At the hearing, the parties may appear in person or with counsel. The hearing shall be held in chambers, but the court reporter shall report the proceedings and his fee therefor shall be paid from the county treasury on order of the court. If the court finds that withdrawal of the consent to adoption is reasonable in view of all the circumstances, and that withdrawal of the consent will be for the best interests of the child, the court shall approve the withdrawal of the consent; otherwise the court shall withhold its approval. If the court approves the withdrawal of consent, the adoption proceeding shall be dismissed.

Any order of the court granting or withholding approval of a withdrawal of a consent to an adoption may be appealed from in the same manner as an order of the juvenile court declaring any person to be a ward of the juvenile court.

SEC. 57. Section 226b of the Civil Code is amended to read

226b. Whenever, in any adoption proceeding, the petitioners desire to withdraw the petition for the adoption or to dismiss the

proceeding, the clerk of the court in which the proceeding is pending shall immediately notify the State Department of Social Services of such action. The State Department of Social Services or the licensed county adoption agency shall file a full report with the court recommending a suitable plan for the child in every such case where the petitioners desire to withdraw the petition for the adoption or where the department or county agency recommends that the petition for adoption be denied and shall appear before the court for the purpose of representing the child. Notwithstanding such withdrawal or dismissal by the petitioners, the court may retain jurisdiction over the child for the purpose of making such order or orders for its custody as the court may deem to be in the best interests of the child.

In any adoption proceeding in which the parent has refused to give the required consent or in which the reason or cause for the withdrawal of the petition or dismissal of the proceeding is the withdrawal of the consent of the natural parent or parents, the court shall order at the hearing the child restored to the care and custody of the natural parent.

SEC. 58. Section 226c of the Civil Code is amended to read:

226c. At the hearing, if the court sustains the recommendation that the child be removed from the home of petitioners because the agency has recommended denial or the petitioners desire to withdraw the petition or the court dismisses the petition and does not return him to his parents, the court shall commit the child to the care of the State Department of Social Services or the licensed county adoption agency, whichever agency made the recommendation, for that agency to arrange adoptive placement or to make a suitable plan. In those counties not covered by a licensed county adoption agency, the county welfare department shall act as the agent of the State Department of Social Services and shall provide care for the child in accordance with rules and regulations established by the department.

SEC. 59. Section 226.1 of the Civil Code is amended to read:

226.1. (a) In all cases in which consent is required, the consent of the natural parent or parents to the adoption by the petitioners must be signed in the presence of an agent of the State Department of Social Services or of a licensed county adoption agency on a form prescribed by such department and filed with the clerk of the superior court, in the county of the petitioner's residence.

(b) Such consent, when reciting that the person giving it is entitled to the sole custody of the minor child, shall, when duly acknowledged before such agent, be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent.

(c) If the father or mother of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary or other person authorized to perform notarial acts, and in such case the consent of the State Department

of Social Services or of a licensed county adoption agency will also be necessary.

(d) A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and such consent shall not be subject to revocation by reason of such minority.

SEC. 60. Section 226.2 of the Civil Code is amended to read:

226.2. In all cases of adoption in which no agency licensed to place children for adoption is a party, it shall be the duty of the State Department of Social Services or of the licensed county adoption agency to accept the consent of the natural parents to the adoption of the child by the petitioners and to ascertain whether the child is a proper subject for adoption and whether the proposed home is suitable for the child, prior to filing its report with the court.

SEC. 61. Section 226.3 of the Civil Code is amended to read:

226.3. In all cases in which the consent of the natural parent or parents is not necessary and an agency licensed to place children for adoption is not a party to the petition, the State Department of Social Services or the licensed county adoption agency shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the superior court of the county in which the petition is filed. Such consent shall not be given by the State Department of Social Services or the licensed county adoption agency unless the child's welfare will be promoted by the adoption.

SEC. 62. Section 226.4 of the Civil Code is amended to read:

226.4. If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of said period granted by the court, the State Department of Social Services or the licensed county adoption agency fails or refuses to accept the consent of the natural parent or parents to the adoption, or if said department or agency fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from such failure or refusal to the superior court of the county in which the petition is filed, in which event the clerk shall immediately notify the State Department of Social Services of such appeal and the department or agency shall within 10 days file a report of its findings and the reasons for its failure or refusal or consent to the adoption or to accept the consent of the natural parent. After the filing of said findings, the court may, if it deems that the welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of said department or agency to consent thereto, grant the petition without such consent.

SEC. 63. Section 226.5 of the Civil Code is amended to read

226.5. The State Department of Social Services or licensed county adoption agency shall interview the parties to the adoption as soon as possible and in any event within 45 days after the filing of the adoption petition.

SEC. 64. Section 226.55 of the Civil Code is amended to read:

226.55. The State Department of Social Services or a local public adoption agency may require persons desiring to adopt a child to be fingerprinted and may secure from the Federal Bureau of Investigation or State Department of Justice the full criminal record, if any, of such persons.

SEC. 65. Section 226.6 of the Civil Code is amended to read:

226.6. It shall be the duty of the State Department of Social Services or of the licensed county adoption agency to investigate the proposed adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption the report shall be filed immediately. The court may allow such additional time for the filing of said reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for such petitioner or petitioners to be heard with respect to the request for additional time. The report required of the State Department of Social Services or of the licensed county adoption agency may be waived by the department in all cases in which an agency, licensed by the State Department of Social Services to place children in homes for adoption, is a party or joins in the petition for adoption. Such waiver may be issued by the department at any time, either before or after the filing of the petition for adoption.

SEC. 66. Section 226.7 of the Civil Code is amended to read:

226.7. Whenever any report or findings are submitted to the court by the State Department of Social Services or by a licensed county adoption agency under any provision of the preceding section, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner.

SEC. 67. Section 226.8 of the Civil Code is amended to read:

226.8. If the findings of the State Department of Social Services or the county adoption agency are that the home of the petitioners is not suitable for the child or that the required consents are not available and it recommends that the petition be denied, or if the petitioners desire to withdraw the petition, and it recommends that the petition be denied, the county clerk upon receipt of the report of the State Department of Social Services or the county adoption agency shall immediately refer it to the superior court for review.

Upon receipt of such reports the court shall set a date for a hearing of the petition and shall give reasonable notice of such hearing to the agency, the petitioners, and the natural parents by certified mail to the address of each as shown in the proceeding.

The department or county agency shall appear to represent the child.

SEC. 68. Section 226.9 of the Civil Code is amended to read:

226.9. Notwithstanding any other provisions of this chapter, in case of an adoption of a child by a stepparent where one natural or adoptive parent retains his or her custody and control of said child, the consent of either or both parents must be signed in the presence of a county clerk, probation officer or county welfare department staff member of any county of this state on a form prescribed by the State Department of Social Services and the county clerk, probation officer or county welfare department staff member before whom such consent is signed shall immediately file said consent with the clerk of the superior court of the county where the petition is filed and said clerk shall immediately file a certified copy of such consent to adoption with the State Department of Social Services.

If the father or mother of a child to be adopted is outside the State of California at the time of signing consent, his or her consent may be signed before a notary or other person authorized to perform notarial acts.

Such consent, when reciting that the person giving it is entitled to sole custody of the minor child, shall, when duly acknowledged before the county clerk, probation officer, or county welfare department staff member be prima facie evidence of the right of the person making it to the sole custody of the child and such person's sole right to consent.

A parent who is a minor shall have the right to sign a consent for the adoption of his or her child and such consent shall not be subject to revocation by reason of such minority.

SEC. 69. Section 226.10 of the Civil Code is amended to read:

226.10. During the pendency of an adoption proceeding, the child proposed to be adopted shall not be concealed within the county in which the adoption is pending; and shall not be removed from such county, unless the petitioners or other interested persons first obtain permission for such removal from the court after giving advance written notice of intent to obtain such permission to the State Department of Social Services or to the licensed adoption agency responsible for the investigation of the proposed adoption. Upon proof of the giving of the notice, permission may be granted by the court if, within a period of 15 days from and after the date of the giving of the notice, no objections have been filed with the court by the State Department of Social Services or the licensed adoption agency responsible for investigation of the proposed adoption. If objections are filed within such period by the department or the adoption agency, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for such removal reasonable notice of such hearing by certified mail to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to such limitations as appear to be in the best interests of the child.

This section does not apply in any of the following situations:

(a) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, provided that a notice of recommendation of denial of petition has not been personally served on the petitioners or the court has not issued an order prohibiting the removal of the child from the county pending consideration of any of the following:

(1) The suitability of the petitioners.

(2) The care provided the child.

(3) The availability of the legally required consents to the adoption.

(b) In a proceeding for the adoption of a child by his stepparent where one natural or adoptive parent retains his or her custody and control of the child.

(c) Where the child has been returned to and remains in the custody and control of his or her natural parent or parents.

(d) Where the child has been relinquished for adoption pursuant to Section 224m and written consent for the removal of the child is obtained from the State Department of Social Services or the licensed adoption agency responsible for the child.

In no event, nor for any period of time, shall a child who has been relinquished for adoption pursuant to Section 224m be removed from the county in which the child was placed by any person who has not petitioned to adopt the child without first obtaining the written consent of the State Department of Social Services or the licensed adoption agency responsible for the child.

A violation of this section constitutes a violation of Section 280 of the Penal Code.

Neither this section nor Section 280 of the Penal Code shall be construed to render lawful any act which is unawful under any other applicable provision of law.

SEC. 70. Section 226.11 of the Civil Code is amended to read:

226.11. All forms adopted by the State Department of Social Services authorizing the release of an infant from a health facility to the custody of persons other than the person entitled to custody of the child pursuant to Section 197 or Section 200 and authorizing such other persons to obtain medical care for the infant shall contain a statement in boldface type delineating the various types of adoptions available, and the natural parents' rights with regard thereto, including, but not limited to, rights with regard to revocation of consent to adoption.

SEC. 71. Section 227 of the Civil Code is amended to read:

227. The person or persons desiring to adopt a child, and the child proposed to be adopted, must appear before the court; provided, that if said adoptive parent is then commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of such person's absence from the State of California, or otherwise, for said person to make such appearance in

person, and said circumstances are established by satisfactory evidence, said appearance may be made for such person by his or her counsel, commissioned and empowered in writing so to do and which said power of attorney may be incorporated in the petition for adoption. The court must examine all persons appearing before it pursuant to this section. The examination of each such person shall be conducted separately but within the physical presence of each such other person or persons unless the court, in its discretion, shall order otherwise. The party or parties adopting shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as the lawful child of the party or parties. If satisfied that the interest of the child will be promoted by the adoption, the court may thereupon make and enter a decree of adoption of the child by the adopting parent or parents, and the child and the adopting parents shall thereupon and thereafter sustain toward each other the legal relationship of parent and child and have all the rights and be subject to all the duties of that relation. In a case where the adopting parent is permitted to appear by counsel, the agreement may be executed and acknowledged by such counsel for such absent party, or may be executed by such absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5 of this code; provided, that in any case where said adoptive parent is permitted to appear by counsel hereunder, or otherwise, the court may, in its discretion, cause such examination of said adoptive parent, other interested party, or witness to be made upon deposition, as it deems necessary, said deposition to be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof to be borne by the petitioner. The petition, relinquishment, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition must be filed in the office of the county clerk and shall not be open to inspection by any other than the parties to the action and their attorneys and the State Department of Social Services except upon the written authority of the judge of the superior court. A judge of the superior court shall not authorize anyone to inspect the petition relinquishment, agreement, order, report to the court from any investigating agency, or power of attorney or deposition or any portion of any such documents except in exceptional circumstances and for good cause approaching the necessitous. The petitioner may be required to pay the expenses for preparing the copies of the documents to be inspected.

Upon written request of any party to the action and upon the order of any judge of the superior court, the county clerk shall not provide any documents referred to in this section for inspection or copying to any other person, unless the name of the natural parents of the child or any information tending to identify the natural parents of the child is deleted from the documents or copies thereof.

Upon the request of the adoptive parents or the child, a county

clerk may issue a certificate of adoption which states the date and place of adoption, the birthday of the child, the name of the adoptive parents, and the name which the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the natural parents of the child.

The provisions of this section permitting an adoptive parent, who is commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, to make an appearance through his or her counsel, commissioned and empowered in writing to do so, are equally applicable to the spouse of such adoptive parent who resides with such adoptive parent outside of this state.

Where, pursuant to this section, neither adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child execute any document during the course of the hearing, the child may do so by and through counsel. Where none of the parties appear, no order of adoption shall be made by the court until after a report has been filed with the court pursuant to Section 226.6.

SEC. 72. Section 227aaa of the Civil Code is amended to read:

227aaa. Notwithstanding any other provision of law, the State Department of Social Services, and any holder of a license or permit to place children for adoption issued by the State Department of Social Services may furnish information relating to any adoption petition to the juvenile court, to any county welfare department, to any public welfare agency, or to any private welfare agency licensed by the State Department of Social Services whenever it is believed the welfare of a child will be promoted thereby.

SEC. 73. Section 227b of the Civil Code is amended to read:

227b. If any child heretofore or hereafter adopted under the foregoing provisions of this code shows evidence of a mental deficiency or mental illness as a result of conditions prior to the adoption to such an extent that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable, and of which conditions the adopting parents or parent had no knowledge or notice prior to the entry of the decree of adoption, a petition setting forth such facts may be filed by the adopting parents or parent with the court which granted the petition for adoption. If such facts are proved to the satisfaction of the court, it may make an order setting aside the decree of adoption.

The petition must be filed within whichever is the later of the following time limits: (a) within five years after the entering of the decree of adoption, or (b) within one year after the effective date hereof, if such a condition were manifest in the child within five years after the entering of the decree of adoption.

In every action brought under this section it shall be the duty of the clerk of the superior court of the county wherein the action is brought to immediately notify the State Department of Social Services of such action. Within 60 days after such notice the State

Department of Social Services shall file a full report with the court and shall appear before the court for the purpose of representing the adopted child.

SEC. 74. Section 227p of the Civil Code is amended to read:

227p. Any adult person may adopt any other adult person younger than himself, except the spouse of the adopting person, by an agreement of adoption approved by a decree of adoption of the superior court of the county in which either the person adopting or the person adopted resides, as provided in this section. The agreement of adoption shall be in writing and shall be executed by the person adopting and the person to be adopted, and shall set forth that the parties agree to assume toward each other the legal relation of parent and child, and to have all of the rights and be subject to all of the duties and responsibilities of that relation.

A married person not lawfully separated from his spouse cannot adopt an adult person without the consent of the spouse of the adopting person, if such spouse, not consenting, is capable of giving such consent. A married person not lawfully separated from his spouse cannot be adopted without the consent of the spouse of the person to be adopted if such spouse, not consenting, is capable of giving such consent. Neither the consent of the natural parent or parents of the person to be adopted, nor of the State Department of Social Services, nor of any other person shall be required.

The adopting person and the person to be adopted may file in the superior court of the county in which either resides a petition praying for approval of the agreement of adoption by the issuance of a decree of adoption. The court shall fix a time and place for hearing on the petition, and both the person adopting and the person to be adopted must appear at the hearing in person, unless such appearance is impossible, in which event appearance may be made for either or both of such persons by counsel, empowered in writing to make such appearance. The court may require notice of the time and place of the hearing to be served on any other interested persons, and any such interested person may appear and object to the proposed adoption. No investigation or report to the court by any public officer or agency is required, but the court may require the county probation officer or the State Department of Social Services to investigate the circumstances and report thereon, with recommendations, to the court prior to the hearing.

At the hearing the court shall examine the parties, or the counsel of any party not present in person. If the court is satisfied that the adoption will be for the best interests of the parties and in the public interest, and that there is no reason why the petition should not be granted, the court shall approve the agreement of adoption, and make a decree of adoption declaring that the person adopted is the child of the person adopting him; otherwise, the court shall withhold approval of the agreement and deny the petition.

A married minor child may be adopted pursuant to the provisions of this section; provided, that such married minor child has the

written consent of his or her spouse to such adoption.

SEC. 75. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his parents when such person comes within any of the following descriptions:

(1) Who has been left without provision for his identification by his parent or parents or by others or has been left by both of his parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his support, or without communication from such parent or parents, with the intent on the part of such parent or parents to abandon such person. Such failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him. If in the opinion of the court the evidence indicates that such parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by such parent or parents. In those cases in which the child has been left without provision for his identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under subdivision (a) of Section 16000 of the Welfare and Institutions Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare such child free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a dependent child of the juvenile court, and such parent or parents deprived of his custody for the period of one year prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when such controlled substances are used as part of a medically prescribed plan, or are morally depraved, if such person has been a dependent child of the juvenile court, and the parent or parents deprived of his custody because of such disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the

petition praying that he be declared free from the custody and control of such parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which such parent or parents were convicted are of such nature as to prove the unfitness of such parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be mentally deficient or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his equivalent, if any, and the superintendent of the hospital of which, if any, such parent or parents are inmates or patients certify that such parent or parents so declared to be mentally deficient or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons each of which must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if he determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds beyond reasonable doubt that return of the child to his parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to

(i) Provide a home for said child;

(ii) Provide care and control for the child; and

(iii) Maintain an adequate parental relationship with the child.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period will not serve to interrupt the running of such period.

(b) A licensed adoption agency may institute under this section, an action to declare a child, as described in this section, free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall in a proper case institute such action.

SEC. 76. Section 8242 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is amended to read:

8242. The Department of Education shall assist the State Departments of Employment Development and Social Services by offering training and job opportunities in local child development programs to those persons who qualify under applicable federal statutes or regulations as recipients of public assistance or other low-income or disadvantaged persons.

SEC. 77. Section 8248 of the Education Code, as amended by Chapter 36 of the Statutes of 1977, is amended to read:

8248. The Superintendent of Public Instruction shall adopt rules and regulations which shall include standards for determining eligibility and priority of service.

Priority for service shall be established on the basis of family marital status and income, with higher priority being assigned children of single-parent families and families with the lowest incomes. Exceptions to these priority criteria shall be granted to any eligible child whose unique circumstances create a pressing need for child development services. The information necessary to establish eligibility of a child for federal reimbursement shall be completed as a part of intake procedures used in accepting a child for care or service.

The regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Social Services relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or handicapped children.

SEC. 78. Section 45209 of the Education Code is amended to read:

45209. The Director of Employment Development is the administrator of the system of unemployment insurance, as provided in Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

SEC. 79. Section 56614 of the Education Code is amended to read:

56614. The State Board of Education shall adopt rules and regulations which shall prescribe standards for the individual identification and evaluation of educationally handicapped pupils

and their admission to special education programs for educationally handicapped pupils. In arriving at such standards the State Board of Education shall receive assistance from an advisory committee consisting of one member from the Department of Education and one member from the State Department of Health Services, such members to be appointed by the heads of the respective departments named. In addition, such advisory committee may consist of such additional members as are appointed by the State Board of Education.

SEC. 80. Section 69275 of the Education Code is amended to read:

69275. Pursuant to the provisions of this article, the State Director of Health Services shall:

(a) Determine whether family practice, primary care physician's assistant training programs proposals, and primary care nurse practitioner training program proposals submitted to the Health Manpower Policy Commission for participation in the state medical contract program established by this article meet the standards established by the commission.

(b) Select and contract on behalf of the state with accredited medical schools, programs which train primary care physician's assistants, programs which train primary care nurse practitioners, hospitals, and other health care delivery systems for the purpose of training undergraduate medical students and residents in the specialty of family practice. Contracts shall be awarded to those institutions which best demonstrate the ability to provide quality education and training and to retain students and residents in specific areas of California where there is a recognized unmet priority need for primary care family physicians. Contracts shall be based upon the recommendations of the commission and in conformity with the contract criteria and program standards established by said commission.

(c) Be empowered to terminate, upon 30 days' written notice, the contract of any institution whose program does not meet the standards established by the commission or which otherwise does not maintain proper compliance with the provisions of this article, except as otherwise provided in contracts entered into by the director pursuant to this article.

SEC. 81. Section 69276 of the Education Code is amended to read:

69276. The State Director of Health Services shall adopt, amend, or repeal such regulations as are necessary to enforce the provisions of this article, which shall include criteria which training programs must meet in order to qualify for waivers of single capitation formulas or maintenance of effort requirements authorized by Section 31913.5. Regulations for the administration of this article shall be adopted, amended, or repealed as provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 82. Section 78613 of the Education Code is amended to read:

78613. The board of governors shall adopt rules and regulations which shall prescribe standards for the individual identification and evaluation of educationally handicapped students and their admission to special education programs for educationally handicapped students. In arriving at such standards the board of governors shall receive assistance from an advisory committee consisting of one member from the board of governors and one member from the State Department of Health Services, such members to be appointed by the heads of the respective departments named. In addition, such advisory committee may consist of such additional members as are appointed by the board of governors.

SEC. 83. Section 88209 of the Education Code is amended to read:

88209. The Director of Employment Development is the administrator of the system of unemployment insurance, as provided in Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

SEC. 84. Section 94312 of the Education Code is amended to read:

94312. Except as otherwise provided for in this code, no course of education or training leading to an educational, technological, professional or vocational objective shall be offered, and no diploma or honorary degree shall be issued or conferred, by any person, firm, association, partnership, corporation, or other entity which has not been approved by the Superintendent of Public Instruction. Application for such approval shall be made in writing on application forms provided by the Department of Education. Pending final approval of new or added courses of instruction, the Superintendent of Public Instruction may issue a temporary approval upon submission of the complete application. A temporary approval shall be for a period of one year, subject to prior termination or conversion to annual approval basis by the Superintendent of Public Instruction. Any extension of a temporary approval on an annual basis shall require an annual fee. Courses offered for adults by any parochial or denominational school, or persons, firms, associations, partnerships, or corporations that have met the requirements of other sections of this division, or are offered solely for avocational or recreational purposes, will not be required to be approved under this section.

The Superintendent of Public Instruction may approve the application for recognition of such courses for a period of one year and shall grant subsequent approvals on an annual basis when an institution is found by the Department of Education to meet the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools or other private schools, or both, in the state, with recognized accepted

standards; or that the course, curriculum, and instruction meet recognized accepted standards for reaching the professed or claimed objective for that particular course.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of that particular course.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is available to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state and federal regulations such as fire, building, and sanitation codes. The Department of Education may require evidence of compliance.

(8) The institution is financially capable of fulfilling its commitments for its approved courses.

(9) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. With respect to a school having courses approved by the Superintendent of Public Instruction, the school can advertise to the effect that the particular course has been approved by the Superintendent of Public Instruction.

(10) The institution does not exceed enrollment facilities and equipment.

(11) The institution's administrator, director, owner, and instructors are of good reputation and character.

(12) The institution has and maintains a policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall set forth a minimum standard of refunds in accordance with rules and regulations adopted by the Superintendent of Public Instruction.

(13) The institution designates an agent for service of process within the state.

(14) In any written contract or agreement for a course of study with an institution there shall be included on the first page of such agreement or contract, in 14-point boldface print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the institution should be directed to the Director of Education, Department of Education, Sacramento, California, 95814."

In addition, such written contracts or agreements shall specify, on

the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters, or both, which are of larger print than the rest of the contract or agreement.

Upon completion of training, the institution may award a "diploma," as defined in Section 94301, to the student indicating the training and attendance completed.

The Superintendent of Public Instruction shall consult with the State Department of Health Services prior to approving programs for training medical assistants pursuant to this section. The consultation with the State Department of Health Services shall concern the minimal standards for facilities, faculty, and curriculum for programs which train medical assistants to the extent that is found necessary to provide sufficient training and skill for graduates to perform competently as medical assistants. The Department of Education may contract with the State Department of Health Services for such consulting services.

For purposes of this section, "medical assistant" is defined as a person employed by a licensed physician or physicians, or a medical corporation established pursuant to Article 17 (commencing with Section 2500) of Chapter 5 of Division 2 of the Business and Professions Code and who performs basic administrative, clerical, and technical supportive services for such physician, or physicians, or medical corporation.

This section shall not be construed to permit medical assistants to perform direct patient care services or other functions requiring a license pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the Superintendent of Public Instruction made pursuant to this section.

Sections 1292, 1293, and 1294 of the Labor Code shall not apply to work experience education programs established pursuant to this section, provided there is continuous and competent supervision by a qualified person.

SEC. 85. Section 94315 of the Education Code is amended to read:

94315. The Superintendent of Public Instruction shall charge, commencing during the 1974–75 fiscal year, the fees listed herein for the approval of private institutions operating under this division. For ensuing fiscal years, the Superintendent of Public Instruction, with the advice of the council, may annually increase such fees by an amount which reflects an increase in the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The Superintendent of Public Instruction shall annually publish a schedule of the current

fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this division:

(a) For approval to issue degrees pursuant to paragraph 2 of subdivision (a) of Section 94310:

(1) Five hundred dollars ($500) for an original application.

(2) One hundred fifty dollars ($150) annually during the duration of the approval period renewal of such application.

(3) One hundred dollars ($100) for any of the following: approval to grant additional degrees, approval of additional major fields of study in approved degrees, for change of location, or auxiliary facilities in a new location.

(4) One hundred fifty dollars ($150) change of ownership.

(5) Eight dollars ($8) evaluation and approval of directors, administrators, and instructors subsequent to the original application.

(b) For filing an original affidavit and appraisal and a copy of the full disclosure required to issue degrees pursuant to paragraph 3 of subdivision (a) of Section 94310, the original affidavit shall be accompanied by a three-hundred-dollar ($300) fee. Each annual affidavit filed thereafter pursuant to Section 94316 shall be accompanied by a one-hundred-fifty-dollar ($150) renewal fee

(c) For filing affidavits to meet the requirements of subdivision (d) of Section 94310, the original affidavit shall be accompanied by a one-hundred-fifty-dollar ($150) fee. Affidavits filed annually thereafter pursuant to subdivision (d) of Section 94310 shall each be accompanied by one hundred fifty dollars ($150).

(d) For approval to issue diplomas or offer courses of education or training pursuant to Section 94312:

(1) Three hundred dollars ($300) for an original application.

(2) One hundred fifty dollars ($150) for a renewal of a temporary approval or annual approval of courses.

(3) One hundred dollars ($100) for approval of any of the following: change of location, major change or revisions in curriculum of course, auxiliary facilities in a new location, or additional courses.

(4) One hundred fifty dollars ($150) for change of ownership.

(5) Eight dollars ($8) for evaluation and approval of directors, administrators, and instructors subsequent to the original application.

(e) For approval of an applicant to solicit or sell correspondence courses of study pursuant to Section 94313, the original application shall be accompanied by a twenty-dollar ($20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars ($15). Application for additional sales permits shall be accompanied by a fifteen-dollar ($15) fee.

(f) For approval of an applicant to solicit or sell enrollment in courses of study at a resident school away from the instructional site

of such institution pursuant to Section 94314, the original application shall be accompanied by a twenty-dollar ($20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars ($15). Applications for additional sales permits shall be accompanied by a fifteen-dollar ($15) fee.

(g) For programs for training medical assistants, in addition to such other fees as may be required, a fee of not to exceed seventy-five dollars ($75) annually to support the contracted consulting services of the State Department of Health Services authorized by Section 94312.

"Auxiliary facilities" as used in this section shall be defined pursuant to regulations adopted by the Director of Education.

SEC. 86. Section 4011 of the Fish and Game Code is amended to read:

4011. Fur-bearing mammals, game mammals, and nongame mammals, when involved in dangerous disease outbreaks, may be taken by duly constituted federal officers of the United States Departments of Agriculture, Interior, and Public Health and state officers of the California Departments of Food and Agriculture, Health Services, and Fish and Game.

SEC. 87. Section 5671 of the Fish and Game Code is amended to read:

5671. The State Department of Health Services may:

(a) Examine any area from which shellfish may be taken.

(b) Determine whether the area is subject to sewage contamination.

(c) Determine whether the taking of shellfish from the area does or may constitute a menace to the lives or health of human beings.

SEC. 88. Section 5672 of the Fish and Game Code is amended to read:

5672. Upon the determination by the State Department of Health Services that the area is or may be subject to sewage contamination, and that the taking of shellfish from it does or may constitute a menace to the lives or health of human beings, it shall ascertain as accurately as it can the bounds of the contamination, and shall post notices on or in the area describing its bounds and prohibiting the taking of shellfish therefrom.

The taking of shellfish from the area is unlawful after the completion of the publication of the notices as prescribed in this article.

SEC. 89. Section 5674 of the Fish and Game Code is amended to read:

5674. The State Department of Health Services shall enforce the provisions of this article, and for that purpose the inspectors and employees of that agency may enter at all times upon public or private property upon which shellfish may be located.

SEC. 90. Section 6021 of the Food and Agriculture Code is amended to read:

6021. If the director receives a report from the executive officer

of the State Department of Health Services which states that field rodents in a certain area carry, or are likely to carry, any disease, insect, or other vector of any disease which is transmissible and injurious to humans, he shall forthwith advise the commissioner of the county in which such rodents exist.

SEC. 91. Section 41302 of the Food and Agriculture Code is amended to read:

41302. Any act which is made unlawful by any provisions of Division 21 (commencing with Section 26000) of the Health and Safety Code is not made lawful by reason of any provision of this part. This part does not limit the powers of the State Department of Health Services.

SEC. 92. Section 41331 of the Food and Agriculture Code is amended to read:

41331. The State Director of Health Services shall be charged with the enforcement of this chapter and for that purpose he shall have all the powers heretofore conferred upon the Director of Agriculture.

SEC. 93. Section 41332 of the Food and Agriculture Code is amended to read:

41332. The State Director of Health Services, for the purpose of enforcing this chapter, may do all of the following:

(a) Enter and inspect every place within the state where canned fruits or vegetables, including olives, are canned, stored, shipped, delivered for shipment, or sold, and inspect all fruits or vegetables, including olives, and containers which are found in any such place.

(b) Seize and retain possession of any canned olives or canned fruits or vegetables which are packed, shipped, delivered for shipment, or sold in violation of any provision of this chapter, and hold them pending the order of the court.

(c) Cause to be instituted and to be prosecuted in the superior court of any county of the state in which may be found canned olives or canned fruits or vegetables which are packed, shipped, delivered for shipment, or sold, in violation of any provision of this chapter, an action for the condemnation of canned olives or canned fruits or vegetables as provided by Division 21 (commencing with Section 26000) of the Health and Safety Code.

SEC. 94. Section 41581 of the Food and Agriculture Code is amended to read:

41581. If the State Director of Health Services finds, after investigation and examination, that any canned fruits or vegetables, including olives, which are found in the possession of any person, firm, company, or corporation are misbranded or mislabeled within the meaning of this chapter, he may seize such canned fruits or vegetables, including olives, and tag them "embargoed." Such canned fruits or vegetables, including olives, shall not thereafter be sold, removed, or otherwise disposed of pending a hearing and final disposition as provided by Division 21 (commencing with Section 26000) of the Health and Safety Code.

SEC. 95. Section 1322 of the Government Code is amended to read:

1322. In addition to any other statutory provisions requiring confirmation by the Senate of officers appointed by the Governor, the appointments by the Governor of the following officers and the appointments by him to the listed boards and commissions are subject to confirmation by the Senate:

(1) California Horse Racing Board.
(2) Certified Shorthand Reporters Board.
(3) Chief, Division of Industrial Safety.
(4) Chief, Division of Industrial Welfare.
(5) Chief, Division of Labor Law Enforcement.
(6) Commissioner of Corporations.
(7) Contractors State License Board.
(8) Director of Fish and Game.
(9) State Director of Health Services.
(10) Chief Deputy, State Department of Health Services.
(11) Real Estate Commissioner.
(12) State Athletic Commissioner.
(13) State Board of Barber Examiners.
(14) State Librarian.
(15) Director of Social Services.
(16) Chief Deputy, State Department of Social Services.
(17) Director of Mental Health.
(18) Chief Deputy, State Department of Mental Health.
(19) Director of Developmental Services.
(20) Chief Deputy, State Department of Developmental Services.
(21) Director of Alcohol and Drug Abuse.
(22) Director of Rehabilitation.
(23) Chief Deputy, Department of Rehabilitation.
(24) Director of the Office of Statewide Health Planning and Development.
(25) Deputy, Health and Welfare Agency.

SEC. 96. Section 6253 of the Government Code is amended to read:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every citizen has a right to inspect any public record, except as hereafter provided. Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of such bodies, and a copy of such guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation

Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Department of Health Services
Employment Development Department
State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
State Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Zone Conservation Commission
All regional coastal zone conservation commissions
State Water Quality Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District.

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make such records accessible to the public.

SEC. 97. Section 11012 of the Government Code is amended to read:

11012. Whenever any state agency, including but not limited to state agencies acting in a fiduciary capacity, is authorized to invest funds, or to sell or exchange securities, prior approval of the Department of Finance to the investment, sale or exchange shall be secured.

Every state agency shall furnish the Department of Finance with such reports and in such form, relating to the funds or securities, their acquisition, sale or exchange, as may be requested by the Department of Finance from time to time.

This section does not apply to the following state agencies:

(a) Any state agency when issuing or dealing in securities

authorized to be issued by it.

(b) The Treasurer.

(c) The Regents of the University of California.

(d) Employment Development Department.

(e) Department of Veterans Affairs.

(f) Hastings College of Law.

(g) Board of Administration of the California Public Employees' Retirement System.

(h) State Compensation Insurance Fund.

(i) California Toll Bridge Authority and Department of Transportation when acting in accordance with bond resolutions adopted under the California Toll Bridge Authority Act prior to the effective date of this section.

(j) Teachers' Retirement Board of the State Teachers' Retirement System.

SEC. 98. Section 11200 of the Government Code is amended to read:

11200. The Governor, upon recommendation of the director of the following state departments, may appoint not to exceed two chief deputies for the Directors of the Departments of Finance, Transportation, and General Services, and not to exceed one chief deputy for the Directors of the Departments of Employment Development, Food and Agriculture, Insurance, Motor Vehicles, Consumer Affairs, Water Resources, Parks and Recreation, Health Services, Social Services, Mental Health, Developmental Services, and Rehabilitation.

The deputies provided for in this section shall be in addition to those authorized by any other law.

SEC. 99. Section 11202 of the Government Code is amended to read:

11202. The exempt position for each deputy appointed pursuant to this article, which is authorized under subdivision (f) of Section 4 of Article VII of the Constitution, shall be a secretary holding a position confidential to the appointee.

SEC. 100. Section 11501 of the Government Code is amended to read:

11501. (a) The procedure of any agency shall be conducted pursuant to the provisions of this chapter only as to those functions to which this chapter is made applicable by the statutes relating to the particular agency.

(b) The enumerated agencies referred to in Section 11500 are:

Board of Dental Examiners of California.

Board of Medical Quality Assurance of the State of California, each of its three divisions, and the Medical Quality Review Committees.

Board of Osteopathic Examiners of the State of California.

California Board of Nursing Education and Nurse Registration.

State Board of Optometry.

California State Board of Pharmacy.

State Department of Health Services.

State Department of Mental Health.
State Department of Developmental Services.
State Department of Alcohol and Drug Abuse.
State Department of Aging.
Office of Statewide Health Planning and Development.
Board of Examiners in Veterinary Medicine.
State Board of Accountancy.
California State Board of Architectural Examiners.
State Board of Barber Examiners.
State Board of Registration for Professional Engineers.
Registrar of Contractors.
State Board of Cosmetology.
State Board of Funeral Directors and Embalmers.
Structural Pest Control Board.
Department of Navigation and Ocean Development.
Director of Consumer Affairs.
Bureau of Collection and Investigative Services.
State Fire Marshal.
State Board of Registration for Geologists.
Director of Food and Agriculture.
Labor Commissioner.
Real Estate Commissioner.
Commissioner of Corporations.
State Department of Social Services.
Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.
Board of Pilot Commissioners for Humboldt Bay and Bar.
Board of Pilot Commissioners for the Harbor of San Diego.
Fish and Game Commission.
State Board of Education.
Insurance Commissioner.
Savings and Loan Commissioner.
State Board of Dry Cleaners.
Board of Behavioral Science Examiners.
State Board of Chiropractic Examiners.
State Board of Guide Dogs for the Blind.
Department of Aeronautics.
Board of Administration, Public Employees' Retirement System.
Department of Motor Vehicles.
Bureau of Home Furnishings.
Cemetery Board.
Department of Conservation.
Department of Water Resources acting pursuant to Section 414 of the Water Code.
Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
Certified Shorthand Reporters Board.
Bureau of Repair Services.
California State Board of Landscape Architects.

Department of Alcoholic Beverage Control.
California Horse Racing Board.
School districts under Section 13443 of the Education Code.
State Fair Employment Practice Commission.
Bureau of Employment Agencies.

SEC. 101. Section 11550.5 of the Government Code is amended to read:

11550.5. An annual salary of thirty-two thousand five hundred dollars ($32,500) shall be paid to the State Director of Health Services.

SEC. 102. Section 11552 of the Government Code is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks
(b) Commissioner of Corporations
(c) Insurance Commissioner
(d) Director of Transportation
(e) Real Estate Commissioner
(f) Savings and Loan Commissioner
(g) Director of Social Services
(h) Director of Water Resources
(i) Director of Food and Agriculture
(j) Director of Corrections
(k) Director of General Services
(*l*) Director of Industrial Relations
(m) Director of Motor Vehicles
(n) Director of Youth Authority
(o) Commissioner, California Highway Patrol
(p) Members of the Public Utilities Commission
(q) Director of Employment Development
(r) Director of Alcoholic Beverage Control
(s) Director of Housing and Community Development
(t) Director of Mental Health
(u) Director of Developmental Services
(v) Director of Alcohol and Drug Abuse
(w) Director of the Office of Statewide Health Planning and Development

SEC. 103. Section 12803 of the Government Code is amended to read:

12803. The Health and Welfare Agency consists of the following departments: Health Services; Mental Health; Developmental Services; Social Services; Alcohol and Drug Abuse; Aging; Employment Development; Rehabilitation; the Youth Authority; and Corrections.

The agency also includes the Office of Statewide Health Planning and Development. Effective July 1, 1979, the Departments of Corrections and the Youth Authority shall no longer be included within the Health and Welfare Agency.

SEC. 104. Section 12803.5 is added to the Government Code, to read:

12803.5. The Governor, upon recommendation of the Secretary of the Health and Welfare Agency, may appoint not to exceed three deputies for the secretary.

SEC. 105. Section 12803.8 is added to the Government Code, to read:

12803.8. The secretary shall provide all possible assistance to any county desiring to integrate or otherwise unify services administered by one or more departments in the Health and Welfare Agency. This assistance shall include, but not be limited to, the provision of technical assistance, modification or waiving of administrative regulations, and supporting legislation to modify statutory requirements impeding the integration of services.

The directors of departments within the Health and Welfare Agency shall cooperate with the secretary in assisting the counties to achieve the integration of health, social service, and other programs. At the request of the secretary, the directors of departments shall make available all reasonable resources necessary to meet the legislative intent of integrating these services at the local level.

SEC. 106. Section 15702.1 of the Government Code is amended to read:

15702.1. The Franchise Tax Board is authorized to delegate to the Employment Development Department which is authorized to accept, exercise, and perform, the powers and duties necessary to administer the reporting, collection, refunding, and enforcement of taxes required to be withheld by employers under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code. The Franchise Tax Board is authorized to delegate to the California Unemployment Insurance Appeals Board which is authorized to accept, exercise, and perform, under rules it adopts, the powers and duties to administer appeals and petitions relating to such provisions of Part 10. The delegation to the Employment Development Department shall not, however, include the power and duty of the Franchise Tax Board to adopt rules and regulations.

SEC. 107. Section 29873 of the Government Code is amended to read:

29873. The county shall submit its application to the State Department of Social Services. The application shall be in such form and show such facts as are prescribed by the State Department of Social Services and the Department of Finance. If the State Department of Social Services approves the application, it shall transmit the application and a statement of its approval to the Department of Finance.

SEC. 108. Section 29874 of the Government Code is amended to read:

29874. If the Department of Finance determines that the purchase will tend to effect the purpose of this article, and that the county is eligible to make application, it may with the approval of the

State Board of Control purchase in the name of the state registered warrants of the county in the amount specified in the application or in any lesser amount agreed to by the county and approved by the State Department of Social Services.

SEC. 109. Section 20 of the Health and Safety Code is amended to read:

20. "State department" means State Department of Health Services.

SEC. 110. Section 21 of the Health and Safety Code is amended to read:

21. "Director" means "State Director of Health Services."

SEC. 111. Section 22 of the Health and Safety Code is amended to read:

22. "Board" or "State Board of Public Health" means "State Department of Health Services," with respect to regulatory functions heretofore performed by the State Board of Public Health or the "Advisory Health Council" with respect to all other functions heretofore performed by the board.

SEC. 112. Section 100 of the Health and Safety Code is amended to read:

100. There is in the state government in the Health and Welfare Agency, a State Department of Health Services.

SEC. 113. Section 101 of the Health and Safety Code is amended to read:

101. The State Department of Health Services is under the control of an executive officer known as the Director of Health Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. He shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 114. Section 102 of the Health and Safety Code is amended to read:

102. The State Director of Health Services shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 115. Section 103 of the Health and Safety Code is amended to read:

103. The State Department of Health Services succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health as they relate to public health, licensing and certification of health facilities, except community care facility licensing to which the State Department of Social Services succeeds, and any other functions performed by Division of Public Health of the State Department of Health on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature, unless such function is transferred to a different state agency or department as

a result of another provision of the statutes of the 1977–78 Regular Session of the Legislature amending this section.

"State department," "department," or "State Department of Health" as used in this code, except in Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1; Part 1.5 (commencing with Section 437) of Division 1; Part 3 (commencing with Section 1175 of Division 1; Chapter 2.2 (commencing with Section 1340) of Division 2; and Part 2.5 (commencing with Section 34700) of Division 24, means the State Department of Health Services.

The Office of Statewide Health Planning and Development shall assume the functions and responsibilities of the Facilities Construction Unit of the former State Department of Health, including, but not limited to, those functions and responsibilities performed pursuant to the following provisions of law, Chapter 3 (commencing with Section 430) and Chapter 4 (commencing with Section 436) of Part 1 of Division 1; Section 1260; Section 13113, Division 12.5 (commencing with Section 15000); and Chapter 4 (commencing with Section 16300) of Part 4 of Division 9 of the Welfare and Institutions Code.

SEC. 116. Section 103.5 is added to the Health and Safety Code, to read:

103.5. There is in the State Department of Health Services a Division of Rural Health. The division shall administer the provisions of Article 12 (commencing with Section 429) and Article 14 (commencing with Section 429.30) of Chapter 2 of this division, Section 1157, and Part 4 (commencing with Section 1185) of this division.

SEC. 117. Section 104 of the Health and Safety Code is amended to read:

104. The State Department of Health Services may use the unexpended balance of funds available for use in connection with the performance of the functions of the State Department of Health to which the State Department of Health Services has succeeded pursuant to Section 103.

SEC. 118. Section 105 of the Health and Safety Code is amended to read:

105. All officers and employees of the State Department of Health heretofore performing any duty, power, purpose, responsibility, or jurisdiction to which the State Department of Health Services has succeeded, who, on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 103 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health

Services, pursuant to the State Civil Service Act except as to positions exempted from civil service.

SEC. 119. Section 106 of the Health and Safety Code is amended to read:

106. The State Department of Health Services shall have possession and control of all records, papers, officers, equipment, supplies, moneys, funds, appropriations, land or other property, real or personal, held for the benefit or use of any state agency the functions of which are vested in the State Department of Health Services by Section 103.

SEC. 120. Section 107 of the Health and Safety Code is amended to read:

107. All officers or employees of the State Department of Health Services employed after the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature shall be appointed by the State Director of Health Services.

SEC. 121. Section 108 of the Health and Safety Code is amended to read:

108. The Public Health Federal Fund in the State Treasury is hereby created. All grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of the State Department of Health Services, shall, on order of the State Controller, be deposited in the Public Health Federal Fund.

SEC. 122. Section 109 of the Health and Safety Code is amended to read:

109. All money in the Public Health Federal Fund is hereby appropriated to the State Department of Health Services, without regard to fiscal years, for expenditure for the purposes for which the money deposited therein is made available by the United States for expenditure by the state.

SEC. 123. Section 110 of the Health and Safety Code is amended to read:

110. The State Department of Health Services and the State Controller shall keep a record of the classes and sources of income deposited in, or transferred to, the Public Health Federal Fund, and of the disbursements and transfers therefrom.

SEC. 124. Section 111 of the Health and Safety Code is amended to read:

111. The Director of Finance and the State Controller may approve any general plan whereby:

(a) Any expenditures which are a proper charge against the money made available by the United States and deposited in the Public Health Federal Fund may be paid in the first instance from any appropriation from the General Fund, expenditures from which are administered through or under the direction of the State Department of Health Services, and

(b) Any expenditures which are a proper charge against an

appropriation from any special fund in the State Treasury, expenditures from which are administered through or under the direction of the State Department of Health Services, may be paid in the first instance from any appropriation from the General Fund, expenditures from which are administered through or under the direction of such department, and

(c) The General Fund shall be reimbursed for expenditures made therefrom that are a proper charge against the Public Health Federal Fund or against any appropriation from any special fund.

Such a general plan may provide for advance transfers from the Public Health Federal Fund to the General Fund, based on estimates of such expenditures that will be subject to reimbursement from the Public Health Federal Fund pursuant to such plan, and may provide for reimbursements to the Public Health Federal Fund, when necessary.

Request for reimbursement or transfer pursuant to such a plan shall be furnished to the State Controller in writing by the State Department of Health Services, accompanied by such financial statements as the plan may provide; and on order of the State Controller, the required amount shall be transferred in accordance therewith.

SEC. 125. Section 112 of the Health and Safety Code is amended to read:

112. All grants or donations of money received by the state from sources other than the United States, the expenditure of which is administered through or under the direction of the State Department of Health Services, shall, on order of the State Controller, be deposited in the Special Deposit Fund, subject to the provisions of Article 2 (commencing with Section 16370) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code. The State Controller shall designate, by name, separate accounts within the Special Deposit Fund covering the accountability for each class of grant or donation deposited under the provisions of this section; and the State Department of Health Services and the State Controller shall keep a record of the classes and sources of income deposited in, or transferred to, each of such accounts in the Special Deposit Fund, and of the disbursements therefrom.

All moneys deposited in the Special Deposit Fund under the provisions of this section shall be available, without regard to fiscal years, for expenditure for the purposes for which such money was made available to the state.

SEC. 126. Section 200 of the Health and Safety Code is amended to read:

200. The State Department of Health Services shall examine into the causes of communicable disease in man and domestic animals occurring or likely to occur in this state.

SEC. 127. Section 205 of the Health and Safety Code is amended to read:

205. It may commence and maintain all proper and necessary

actions and proceedings for any or all of the following purposes:

(a) To enforce its rules and regulations.

(b) To enjoin and abate nuisances dangerous to health.

(c) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to the public health.

(d) To protect and preserve the public health.

It may defend all actions and proceedings involving its powers and duties. In all actions and proceedings it shall sue and be sued under the name of the State Department of Health Services.

SEC. 128. Section 208 of the Health and Safety Code is amended to read:

208. (a) It may adopt and enforce rules and regulations for the execution of its duties.

(b) All regulations heretofore adopted by the State Board of Public Health, the former State Department of Public Health, and the State Department of Health pursuant to the authority granted in Sections 102, 308, and 1222 shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

SEC. 129. Section 212 of the Health and Safety Code is repealed.

SEC. 130. Section 214 of the Health and Safety Code is amended to read:

214. The State Department of Health Services shall enforce the provisions of Section 383b of the Penal Code.

SEC. 131. Section 249 of the Health and Safety Code is amended to read:

249. The State Department of Health Services shall establish and administer a program of services for physically defective or handicapped persons under the age of 21 years, in cooperation with the federal government through its appropriate agency or instrumentality, for the purpose of developing, extending and improving such services. The state department shall receive all funds made available to it by the federal government, the state, its political subdivisions or from other sources. The state department shall have power to supervise those services included in the state plan which are not directly administered by the state. The state department shall cooperate with the medical, health, nursing and welfare groups and organizations concerned with the program, and any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children.

The reference to "the age of 21 years" in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

SEC. 132. Section 249.2 of the Health and Safety Code is amended to read:

249.2. The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Benefit Payments

with respect to moneys, funds, and appropriations available to the State Department of Health Services for the purposes of processing, audit, and payment of claims received for the purposes of this article.

SEC. 133. Section 249.3 of the Health and Safety Code is amended to read:

249.3. The State Department of Health Services shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 249.2.

SEC. 134. Section 249.4 of the Health and Safety Code is amended to read:

249.4. All officers and employees of the Director of Benefit Payments who on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 249.2 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 135. Section 258 of the Health and Safety Code is amended to read:

258. A county of under 200,000 population, administering its county program jointly with the state department, shall forward to the state department a statement certifying the family of the handicapped child as financially eligible for treatment services. The state department shall authorize necessary services within the limits of available funds. Payment for services shall be made by the state department, with reimbursement from the county for its proportionate share as specified in this article.

SEC. 136. Section 259 of the Health and Safety Code is amended to read:

259. The state department may, without the possession of a county certification, pay the expenses for services required by any physically handicapped child out of any funds received by it through gift, devise, or bequest or from private, state, federal or other grant or source.

The state department may authorize or contract with any person or institution properly qualified to furnish services to handicapped children. It may pay for services out of any funds appropriated for the purpose or from funds it may receive by gift, devise or bequest.

The state department may receive gifts, legacies, and bequests and expend them for the purpose of this article, but not for administrative expense.

SEC. 137. Section 261 of the Health and Safety Code is amended

to read:

261. Upon the request of another state or of a federal agency, the state department may pay the expenses of services required by any physically handicapped child who is not a resident of the state; provided, that the cost of such services is fully covered by special grants or allotments received from such state or federal agency for that purpose.

SEC. 138. Section 265 of the Health and Safety Code is amended to read:

265. Annually the board of supervisors of each county shall appropriate for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, exclusive of administrative costs, a sum of money not less than that represented by a rate of one-tenth of one mill ($0.0001) on each dollar of the assessed valuation of the taxable property in the county, except that whenever the department on or before May 1st of any year certifies to the board of supervisors a smaller amount needed for such purposes in that county, the latter shall be the minimum amount appropriable for expenditure therefor in that county during the next succeeding fiscal year.

The state shall appropriate funds sufficient to bring each county program to twenty thousand dollars ($20,000) or four-tenths of one mill ($0.0004), whichever is greater, except if the county has appropriated less than one-tenth mill ($0.0001) as provided in this section.

Nothing in this section shall prevent a county board of supervisors from appropriating additional money for services to handicapped children, and the state shall be obligated to match such appropriations in a ratio of three dollars ($3) for one dollar ($1) of county money up to a maximum county appropriation of two-tenths of a mill ($0.0002) of assessed valuation upon a determination by the department that a need based on departmental priorities exists for such supplemental state and county funds. The state department may, upon approval of the Director of Finance, approve a county appropriation in excess of two-tenths mill ($0.0002), upon the county's expression of intent to appropriate additional funds and the state's ability to match such appropriation in a ratio of three dollars ($3) for one dollar ($1) of county money within the current state appropriation for its program.

Expenditures for services shall represent a concurrent obligation against state and county funds according to the method of reimbursement specified in this section.

The state shall reimburse counties quarterly on a 3:1 matching basis for county expenditures, provided that the state quarterly payment shall not exceed by more than 10 percent the total state funds allocated quarterly to each county, except as provided in Section 266.

Expenditures made to reimburse counties for the state's share of

the cost of such services shall be charged to the fiscal year in which the county issues its warrant in payment of such services. Expenditures made by the state on behalf of counties for the cost of such services shall be charged to the fiscal year in which the warrant is issued by the State Controller.

Federal grant funds allocated for the support of the crippled children's program shall be used for the purpose of state matching of county appropriations for services except for the cost of the administration of the program by the state department.

State matching dollars for services for handicapped children shall not exceed the amount actually appropriated for the program.

SEC. 139. Section 266 of the Health and Safety Code is amended to read:

266. For those counties with a total appropriation of county and state funds not exceeding two hundred fifty thousand dollars ($250,000) and upon the expenditure of county funds equivalent to a county appropriation of two-tenths mill ($0.0002), the state department may from state-appropriated funds pay for services for cases deemed by it to represent emergencies or cases where medical care cannot be delayed without great harm to the child.

SEC. 140. Section 269 of the Health and Safety Code is amended to read:

269. The state department shall require of participating local governments the provision of program data including, but not limited to, the number of children treated, the kinds of disabilities, and the costs of treatment, to enable the state department, the Department of Finance, and the Legislature to evaluate in a timely fashion and to adequately fund the crippled children's program.

SEC. 141. Section 283.4 of the Health and Safety Code is amended to read:

283.4. The State Department of Health Services may establish one or more pilot programs not to exceed three years in duration, to provide personal health care services in the perinatal period to high-risk pregnant women.

SEC. 142. Section 284 of the Health and Safety Code is amended to read:

284. The State Director of Health Services shall set priorities and establish standards for services for high-risk pregnant women and perinatal care centers funded under this article, so that the aggregate cost for each fiscal year of the pilot programs does not exceed the total of amounts appropriated by the state for such purpose for the fiscal year and any federal or other funds available for such purpose.

SEC. 143. Section 290 of the Health and Safety Code is amended to read:

290. The organizational unit of the State Department of Health Services relating most directly to maternal and child health shall designate and fund a three-year pilot program for the prenatal testing, by means of amniocentesis, for genetic disorders in at least two medical centers affiliated with a medical school. One of the

centers shall be located to serve the region of the state north of the Tehachapi Mountains and one of the centers shall be located to serve the region of the state south of the Tehachapi Mountains.

SEC. 144. Section 300 of the Health and Safety Code is amended to read:

300. The State Department of Health Services shall maintain a program of maternal and child health.

SEC. 145. Section 303.5 of the Health and Safety Code is amended to read:

303.5. It is the intent of the Legislature that the administration of immunizing agents by registered nurses in school immunization programs under the direction of a supervising physician and surgeon as provided in Section 11704 of the Education Code shall be in accordance with accepted medical procedure. To implement this intent, the State Department of Health Services may adopt written regulations specifying the procedures and circumstances under which a registered nurse, acting under the direction of a supervising physician and surgeon, may administer an immunizing agent pursuant to Section 11704 of the Education Code.

However, nothing in this section shall be construed to prevent any registered nurse from administering an immunizing agent in accordance with the provisions of Section 11704 of the Education Code in the absence of such written regulations as the state department is authorized to adopt under this section.

SEC. 146. Section 304 of the Health and Safety Code is amended to read:

304. Every licensed physician and surgeon or other person attending a newborn infant diagnosed as having had rhesus (Rh) isoimmunization hemolytic disease shall report such condition to the State Department of Health Services on report forms prescribed by the state department.

SEC. 147. Section 306 of the Health and Safety Code as amended and renumbered by Chapter 902 of the Statutes of 1973 is amended to read:

306. (a) The blood specimen obtained shall be submitted to a licensed clinical laboratory or approved public health laboratory for a determination of rhesus (Rh) blood type and the results reported (1) to the physician and surgeon or other person engaged in the prenatal care of the woman or attending such woman at the time of delivery, and (2) to the woman tested.

(b) The State Department of Health Services shall adopt such rules and regulations as it determines are reasonably necessary for the implementation of the provisions of subdivision (a) of this section.

SEC. 148. Section 306.5 of the Health and Safety Code is amended to read:

306.5. A State Child Health Board is hereby established within the state department which shall consist of nine voting members.

The Governor shall appoint the following five members of the

board: a county health officer selected from a list of three nominees submitted by the California Conference of Local Health Officers, one physician and surgeon, one person representative of a child advocate organization, and two parents of children eligible for services pursuant to this article, who are not health care providers. The Chairman of the Senate Rules Committee shall appoint two members of the board: a pediatrician and a parent of an eligible child who is not a health care provider. The Speaker of the Assembly shall appoint two members of the board: a pediatrician and a nurse whose speciality is child health. The State Director of Health Services and the Superintendent of Public Instruction, or their designees, shall serve as ex officio, nonvoting members of the board. Except for existing members of the board, all appointments shall be for three years.

The members of the board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this article.

The board shall select its own chairman from among the nine appointed members by majority vote of the members and shall establish technical advisory committees as it deems necessary and desirable. Physician members of the board shall constitute a technical advisory committee for purposes of review of standards and regulations promulgated pursuant to subdivisions (a), (b), and (c). The board may utilize available department staff and staff of all other public and private agencies which have an interest in child health services.

The board shall meet on call of the board chairman, at least once annually, or as often as necessary to fulfill its duties. All meetings and records of the board shall be open to the public.

The board shall have the following powers, duties, and responsibilities:

(a) Review of standards for health screening, evaluation, and diagnostic procedures for community child health and disability prevention programs.

(b) Review of standards for directors of community child health and disability prevention programs.

(c) Review of standards for public and private health providers, facilities, and agencies which participate in community child health and disability prevention programs.

(d) Advising the director on the development of a five-year state plan for child health and disability prevention services.

(e) Periodic review of all child health and disability prevention services within California and conducting independent investigations and studies as necessary.

SEC. 149. Section 308.5 of the Health and Safety Code is amended to read:

308.5. On and after July 1, 1976, each child eligible for services under this article shall, within 90 days after entrance into the first grade, provide a certificate approved by the State Department of

Health Services to the school in which the child is to enroll documenting that within the prior 18 months the child has received the appropriate health screening and evaluation services specified in Section 307. A waiver signed by the child's parents or guardian indicating that they do not want or are unable to obtain such health screening and evaluation services for their children shall be accepted by the school in lieu of the certificate. If the waiver indicates that the parent or guardian was unable to obtain such services for the child, then the reasons why should be included in the waiver.

SEC. 150. Section 308.8 of the Health and Safety Code is amended to read:

308.8. In cooperation with the county child health and disability prevention program, the governing body of every school district or private school which has children enrolled in kindergarten shall provide information to the parents or guardians of all children enrolled in kindergarten of the provisions of this article. Every school district or private school which has children enrolled in the first grade shall report by January 15 of each year to the county child health and disability prevention program, the State Department of Health Services and the Department of Education the following information:

(a) The total number of children enrolled in first grade.

(b) The number of children who have had a health screening examination, as evidenced by the certificate required by Section 308.5.

(c) The number of children whose parents or guardian have given written notice pursuant to Section 308.5 that they do not want their child to receive a health screening examination.

Each county child health and disability prevention program shall reimburse school districts for information provided pursuant to this section. The Superintendent of Public Instruction may withhold state average-daily-attendance funds to any school district for any child for whom a certification or parental waiver is not obtained.

SEC. 151. Section 311 of the Health and Safety Code is amended to read:

311. The State Department of Health Services may establish a five-year pilot project in not more than six counties to serve areas designated by the city or county health department or city and county health department as areas of high nutritional need under guidelines established by the department. If the state department establishes a pilot project pursuant to this section, the first year of the pilot project shall be devoted to developing the project for review by the Legislature. Any pilot project established pursuant to this section shall comply with all the provisions of this article.

SEC. 152. Section 320.2 of the Health and Safety Code is amended to read:

320.2. As used in this article:

(a) "Board" means the State Child Health Board.

(b) "Department" means the State Department of Health

Services.

(c) "Director" means the State Director of Health Services.

(d) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

SEC. 153. Section 325 of the Health and Safety Code is amended to read:

325. It is the policy of the State of California to make every effort to detect, as early as possible, sickle cell anemia, a heritable disorder which leads to physical defects.

The State Department of Health Services shall have the responsibility of designating tests and regulations to be used in executing this policy. Such tests shall be in accordance with accepted medical practices.

Testing for sickle cell anemia may be conducted at the following times:

(a) Upon first enrollment of a child at an elementary school in this state, such child may be tested.

(b) For any child not tested pursuant to subdivision (a), upon first enrollment at a junior high school or senior high school in this state, as the case may be, such child may be tested.

(c) Upon application of any person for a license to marry, the parties seeking to be married may be tested.

(d) At any other times that the department may designate.

The provisions of this section shall not apply if a parent or guardian of a minor child sought to be tested or any adult sought to be tested objects to the test on the ground that the test conflicts with his religious beliefs or practices.

SEC. 154. Section 326 of the Health and Safety Code is amended to read:

326. The State Department of Health Services may require that a test be given for sickle cell anemia pursuant to Section 325 to any identifiable segment of the population which the department determines is susceptible to sickle cell anemia at a disproportionately higher ratio than is the balance of the population.

SEC. 155. Section 341 of the Health and Safety Code is amended to read:

341. The State Director of Health Services shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, and sickle cell disease, through physicians and centers that are qualified pursuant to the regulations of the department to provide such medical services. The director, with the guidance of the Advisory Committee on Genetically Handicapped Person's Program may, by regulation, expand the list of genetically handicapping conditions covered under this article. The director shall adopt such rules and regulations as are necessary for the implementation of the provisions of this article. The director, with the approval of the advisory committee, shall establish priorities for the use of funds and provision of services under this article.

SEC. 156. Section 343 of the Health and Safety Code is amended to read:

343. The State Director of Health Services shall appoint a nine-member Advisory Committee on Genetically Handicapped Person's Program composed of professional and consumer representatives who shall serve without compensation and at the discretion of the director. The director shall seek the advice of the advisory committee with respect to rules and regulations to be adopted pursuant to this article.

SEC. 157. Section 344 of the Health and Safety Code is amended to read:

344. The State Director of Health Services shall establish the rate structure for reimbursement of physicians and supportive services. Such rates shall not be less than the amounts paid for provider services under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

SEC. 158. Section 346 of the Health and Safety Code is amended to read:

346. The State Department of Health Services shall receive and expend all funds made available to it by the federal government, the state, its political subdivisions or from other sources for the purposes of this article. Payment for genetically handicapped person's program shall be made by the State Department of Health Services.

SEC. 159. Section 350 of the Health and Safety Code is amended to read:

350. The State Department of Health Services shall maintain a dental program including, but not limited to, the following:

(a) Development of comprehensive dental health plans within the framework of the State Plan for Health to maximize utilization of all resources.

(b) Provide the consultation necessary to coordinate federal, state, county, and city agency programs concerned with dental health.

(c) Encourage, support, and augment the efforts of city and county health departments in the implementation of a dental health component in their program plans.

(d) Provide evaluation of these programs in terms of preventive services.

(e) Provide consultation and program information to the health professions, health professional educational institutions, and volunteer agencies.

(f) For purposes of this article "State Plan for Health" means that comprehensive state plan for health being developed by the State Department of Health Services pursuant to Public Law 89-749 (80 Stat. 1180).

SEC. 160. Section 351 of the Health and Safety Code is amended to read:

351. The State Director of Health Services shall appoint a dentist

licensed in the State of California to administer the dental program.

SEC. 161. Section 354 of the Health and Safety Code is amended to read:

354. The State Department of Health Services shall have the power to receive for the dental program any financial aid granted by any private, federal, state, district, or local or other grant or source, and the division shall use such funds to carry out the provisions and purposes of this article.

SEC. 162. Section 374 of the Health and Safety Code is amended to read:

374. The State Department of Health Services shall maintain a laboratory and such branch laboratories as may be necessary to perform the microbiological, physical and chemical analyses required to meet the responsibilities of the department.

SEC. 163. Section 382 of the Health and Safety Code is amended to read:

382. No person shall be awarded a scholarship under subdivision (a) or (b) of Section 381 unless:

(a) He is a resident of California.

(b) He is licensed as a registered nurse by this state.

(c) He has complied with all the rules and regulations adopted pursuant to this article.

(d) He has agreed that he will continue his education to completion of the bachelor's degree or a program supplemental to a bachelor's degree required for admission to master level studies in nursing, and that after completion of the requirements of Section 381(a) or (b), and within a period of time to be determined by the State Department of Health Services will enroll in an accredited master's degree program in teaching or supervision in a clinical nursing area.

(e) He agrees that immediately upon completion of his graduate study, either master's degree or post-master's program, he will assume an employment obligation in California in teaching or supervision in a clinical nursing area, for not less than one year.

SEC. 164. Section 384 of the Health and Safety Code is amended to read:

384. The State Department of Health Services shall administer the program of nursing education scholarships and shall for such purpose, adopt such rules and regulations as it determines are necessary to carry out the provisions of this article.

SEC. 165. Section 400 of the Health and Safety Code is amended to read:

400. The State Department of Health Services shall maintain a program of sanitary engineering.

SEC. 166. Section 405 of the Health and Safety Code is amended to read:

405. The State Department of Health Services may maintain a program of accidental injury study and control, including but not limited to, all of the following:

(a) The conduct of studies to determine the health and human components of accidental injury.

(b) The study of factors associated with prompt and efficient emergency treatment of accidental injuries.

(c) The study of human and environmental factors in the occurrence of accidental injury.

(d) The development of control programs to reduce the frequency and severity of accidental injuries resulting from health and other human factors, either alone or in combination with environmental factors.

(e) Consultation with and assistance to local health departments and other agencies in the development and maintenance of programs for the prevention and control of accidental injuries.

SEC. 167. Section 410 of the Health and Safety Code is amended to read:

410. The State Department of Health Services shall define disorders characterized by lapses of consciousness for the purposes of the reports hereinafter referred to:

(1) All physicians shall report immediately to the local health officer in writing, the name, date of birth, and address of every person diagnosed as a case of a disorder characterized by lapses of consciousness.

(2) The local health officer shall report in writing to the state department the name, age, and address, of every person reported to it as a case of a disorder characterized by lapses of consciousness.

(3) The state department shall report to the State Department of Motor Vehicles the names, dates of birth, and addresses, of all persons reported as a case of a disorder characterized by lapses of consciousness by the physicians and local health officers.

(4) Such reports shall be for the information of the State Department of Motor Vehicles in enforcing the provisions of the Vehicle Code of California, and shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this state.

SEC. 168. Section 416 of the Health and Safety Code is amended to read:

416. The Director of Developmental Services may be appointed as either guardian or conservator of the person and estate, or person or estate, of any developmentally disabled person, who is either of the following:

(1) Eligible for the services of a regional center.

(2) A patient in any state hospital, and who was admitted or committed to such hospital from a county served by a regional center.

Any reference in this article to the Director of Health shall be deemed a reference to the Director of Developmental Services.

SEC. 169. Section 416.9 of the Health and Safety Code is amended to read:

416.9. The court may appoint the Director of Developmental

Services as guardian or conservator of the person and estate or person or estate of a minor or adult developmentally disabled person. The preferences established in Section 1753 of the Probate Code for appointment of a conservator shall not apply. An appointment of the Director of Developmental Services as conservator shall not constitute a judicial finding that the developmentally disabled person is legally incompetent.

SEC. 170. Section 416.95 of the Health and Safety Code is amended to read:

416.95. Prior to the appointment of the Director of Developmental Services as guardian or conservator of the person and estate or person or estate of a minor or adult developmentally disabled person, the court shall inform such person of the nature and purpose of the guardianship or conservatorship proceedings, that the appointment of a guardian for his person and estate or person or estate is a legal adjudication of his incompetence, and the effect of such an adjudication on his basic rights. After communicating such information to the alleged developmentally disabled person and prior to the appointment of the Director of Developmental Services as guardian or conservator, the court shall consult with such person to determine his opinion concerning the appointment.

Any adult developmentally disabled person for whom guardianship or conservatorship is sought pursuant to this article shall be informed by a member or designee of the regional center and by the court of his right to counsel; and if he does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him. The person shall pay the cost for such legal service if he is able.

If an affidavit or certificate has been filed, as provided in Section 416.7, evidencing the inability of the alleged developmentally disabled person to be present at the hearing, the psychologist or social worker assisting in preparing the report and who is required to visit each person as provided in Section 416.8 shall communicate such information to the person during the visit, consult such person to determine his opinion concerning the appointment, and be prepared to testify as to such person's opinion, if any.

SEC. 171. Section 416.10 of the Health and Safety Code is amended to read:

416.10. No appointment of both the Director of Developmental Services and a private guardian or conservator shall be made for the same person and estate, or person or estate. The Director of Developmental Services may be appointed as provided in this article to succeed an existing guardian or conservator upon the death, resignation or removal of such guardian or conservator.

SEC. 172. Section 416.12 of the Health and Safety Code is amended to read:

416.12. The Director of Developmental Services shall file an official bond in no event less than twenty-five thousand dollars ($25,000), which bond shall inure to the joint benefit of the several

guardianship or conservatorship estates and the State of California, and the Director of Health shall not be required to file bonds in individual cases.

SEC. 173. Section 416.13 of the Health and Safety Code is amended to read:

416.13. The appointment by the court of the Director of Developmental Services as conservator or guardian shall be by the title of his office. The authority of the Director of Developmental Services as conservator or guardian shall cease upon the termination of his term of office as such Director of Developmental Services and his authority shall vest in his successor or successors in office without further court proceedings. The Director of Developmental Services shall not resign as conservator or guardian unless his resignation is approved by the court.

SEC. 174. Section 416.14 of the Health and Safety Code is amended to read:

416.14. The Director of Developmental Services shall consult with developmentally disabled persons and their families with respect to the services he offers, and, in addition, shall:

(a) Act as adviser for those developmentally disabled persons who request his advice and guidance or for whose benefit it is requested.

(b) Accept appointment as conservator of the person and estate, or person or estate, of those developmentally disabled persons who need his assistance and protection, but who have not been judicially determined to be legally incompetent. Such appointment shall not constitute a finding that the developmentally disabled person is legally incompetent.

(c) Accept appointment as guardian of the person and estate, or person or estate of those developmentally disabled persons who are or have been judicially determined to be legally incompetent.

SEC. 175. Section 416.15 of the Health and Safety Code is amended to read:

416.15. The Director of Developmental Services, when acting as adviser, may provide advice and guidance to the developmentally disabled person without prior appointment by a court. The provision for such services shall not be dependent upon a finding of incompetency, nor shall it abrogate any civil right otherwise possessed by the developmentally disabled person.

SEC. 176. Section 416.16 of the Health and Safety Code is amended to read:

416.16. The Director of Developmental Services shall have the same powers and duties as those established for guardians and conservators in the Guardianship Act and the Conservatorship Act.

SEC. 177. Section 417.7 of the Health and Safety Code is amended to read:

417.7. The state department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the Department of Benefit Payments with respect to the payment of grants to and audit responsibility for regional dialysis

centers under this article and for home dialysis training centers under Article 7.8 (commencing with Section 418) of Chapter 2, Part 1, Division 1.

SEC. 178. Section 417.8 of the Health and Safety Code is amended to read:

417.8. The State Department of Health Services shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 417.7.

SEC. 179. Section 417.9 of the Health and Safety Code is amended to read:

417.9. All officers and employees of the Director of Benefit Payments who on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 417.7 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 180. Section 418 of the Health and Safety Code is amended to read:

418. Up to three home dialysis training centers shall be established for the purpose of training persons suffering from chronic uremia for home dialysis. Each such center shall have an affiliation with a large hospital or medical school, but shall utilize the most economical facilities for treatment. These institutions, however, shall be able to provide a full range of home dialysis training services. The state department and the review committee established pursuant to Section 417.3 shall exercise over the home dialysis training centers the same powers they exercise, pursuant to Article 7.7 (commencing with Section 417) of this chapter, over regional dialysis centers.

SEC. 181. Section 418.1 of the Health and Safety Code is amended to read:

418.1. Each center shall contain approximately four dialysis bed units. The state department shall grant to each such center fifty thousand dollars ($50,000) during the first year, twenty-five thousand dollars ($25,000) during the second year, and twelve thousand five hundred dollars ($12,500) during the third year. The state department shall grant to each such center not to exceed five thousand dollars ($5,000) in the first year for the purchasing or leasing of equipment and not to exceed two thousand five hundred dollars ($2,500) in the first year for construction or remodeling of the physical facility.

SEC. 182. Section 420 of the Health and Safety Code is amended to read:

420. The State Department of Health Services may maintain a mental health service which shall advise and assist local departments of health and education in the establishment of mental health services, particularly in connection with maternal and child health conferences and in the schools of the state.

The state department may conduct such activities as may be required in the development of mental health services as related to public health.

This article does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

SEC. 183. Section 425 of the Health and Safety Code is amended to read:

425. The State Department of Health Services shall submit to the State Air Resources Board recommendations for ambient air quality standards reflecting the relationship between the intensity and composition of air pollution and the health, illness, irritation to the senses, and the death of human beings.

SEC. 184. Section 427.3 of the Health and Safety Code is amended to read:

427.3. The State Department of Health Services shall by regulation establish such minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction which are stricter than the standards adopted by the state department pursuant to this section.

SEC. 185. Section 428 of the Health and Safety Code is amended to read:

428. The State Department of Health Services shall maintain a program for the prevention of blindness, including, but not limited to:

(a) Studies to determine the number, distribution, and nature of conditions leading to blindness among the population of the state.

(b) Investigations into the causes of blindness for the purpose of developing control procedures.

(c) Consultations with, and assistance to, local agencies directed toward education for the prevention of blindness, the early identification of conditions leading to blindness, and the application of methods for reducing the amount of blindness resulting from preventable conditions.

SEC. 186. Section 429 of the Health and Safety Code is amended to read:

429. The State Department of Health Services may maintain a program for seasonal agricultural and migratory workers and their families, consisting of:

(a) Studies of the health and health services for seasonal

agricultural and migratory workers and their families throughout the state.

(b) Technical and financial assistance to local agencies concerned with the health of seasonal agricultural and migratory workers and their families.

(c) Coordination with similar programs of the federal government, other states, and voluntary agencies.

SEC. 187. Section 429.11 of the Health and Safety Code is amended to read:

429.11. The State Department of Health Services shall maintain a program of occupational health and occupational disease prevention including, but not limited to, the following:

(a) Investigations into the causes of morbidity and mortality from work-induced diseases.

(b) Development of recommendations for improved control of work-induced diseases.

(c) Maintenance of a thorough knowledge of the effects of industrial chemicals and work practices on the health of California workers.

(d) Provision of technical assistance in matters of occupational disease prevention and control to the Department of Industrial Relations and other governmental and nongovernmental agencies, organizations, and private individuals.

(e) Collection and summarization of statistics describing the causes and prevalence of work-induced diseases in California.

SEC. 188. Section 429.30 of the Health and Safety Code is amended to read:

429.30. The State Department of Health Services shall maintain a program for Indians and their families, consisting of:

(a) Studies of the health and health services for Indians and their families throughout the state.

(b) Technical and financial assistance to local agencies concerned with the health of Indians and their families.

(c) Coordination with similar programs of the federal government, other states, and voluntary agencies.

SEC. 189. Section 429.40 of the Health and Safety Code is amended to read:

429.40. The State Department of Health Services shall provide financial assistance to county and areawide immunization campaigns under the direction of local health officers for the prevention of rubella.

SEC. 190. Section 429.41 of the Health and Safety Code is amended to read:

429.41. All moneys appropriated to the department for the purposes of this article shall be made available to local health departments, as defined in Section 1102, or to areawide associations of local health departments. All moneys received by such local departments or areawide associations shall be utilized only for the purchase of rubella vaccines, other necessary supplies and

equipment for rubella immunization campaigns, and promotional costs of such campaigns. No moneys appropriated for the purpose of this article shall be used by the State Department of Health Services or by any local department or areawide association for administrative purposes, and no such moneys may be used to supplant or support local health department clinics and programs already regularly operated by such departments, but may be used only for additional county or areawide rubella immunization campaigns. All moneys appropriated for the purposes of this article shall be expended by March 31, 1971.

SEC. 191. Section 429.50 of the Health and Safety Code is amended to read:

429.50. The State Department of Health Services may do all of the following activities:

(1) Make a continuing study of births, deaths, marriages, and divorce, in order to provide a continuing analysis of such trends to state agencies and to the Legislature.

(2) Request and receive demographic and population data from the Department of Finance.

(3) Make any additional collection of data necessary to describe and analyze fertility, family formation and dissolution, abortion practices, and other factors related to population dynamics, public health, and the environment.

(4) Assess the health, environmental, and related effects of current and projected population.

(5) Formulate recommendations for programs, consistent with individual rights and the integrity of the environment, to respond to projected trends.

SEC. 192. Section 431 of the Health and Safety Code is amended to read:

431. The State Department of Health Services shall constitute the sole agency of the state for the following purposes:

(a) Making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing a program of hospital construction as provided in Article 3 (commencing with Section 432) of this chapter.

(b) Developing and administering a state plan for the construction of public and other nonprofit hospitals as provided in Article 3 (commencing with Section 432) of this chapter.

SEC. 193. Section 432.2 of the Health and Safety Code is amended to read:

432.2. The department may make application to the Surgeon General for federal funds to assist in carrying out the survey and planning activities provided for in this article. Such funds shall be deposited in the State Department of Health Services Fund in the State Treasury.

SEC. 194. Section 432.9 of the Health and Safety Code is amended to read:

432.9. The department is hereby authorized to receive federal

funds in behalf of, and transmit them to, such applicants. Money received from the federal government for a construction project approved by the Surgeon General shall be deposited in the State Department of Health Services Fund, and shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects.

SEC. 195. Section 433 of the Health and Safety Code is amended to read:

433. Any moneys deposited in the State Department of Health Services Fund in accordance with the provisions of this article are appropriated for expenditure by the director for the purposes for which such moneys were received, in accordance with the provisions of this chapter. Any such funds received and not expended for the purposes of this article shall be repaid to the Treasury of the United States.

SEC. 196. Section 434 of the Health and Safety Code is amended to read:

434. The Legislature finds that in certain areas there is a need for nursing and convalescent homes for persons who are indigent. It is the purpose of this section to provide authorization for the construction of such homes, so that public medical assistance may be provided, under the state's medical assistance programs, for such indigent persons.

The State Department of Health Services may issue a certificate of need upon application by a chartered nonprofit corporation, for a nursing and convalescent home which provides or makes available medical care for indigent persons, to be constructed under the Mortgage Insurance Program of the Federal Housing Administration.

SEC. 197. Section 435.2 of the Health and Safety Code is amended to read:

435.2. The State Department of Health Services shall administer this article, and shall make such rules and regulations as may be necessary to carry out its provisions.

SEC. 198. Section 435.7 of the Health and Safety Code is amended to read:

435.7. Application for state assistance under this article shall be made to the State Department of Health Services, in the manner and form prescribed by the state department. The state department shall prescribe the time and manner of payment of state assistance, if granted.

SEC. 199. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, and initial or additional equipping of any such buildings. "Construction" also includes consulting, financing, architectural, and engineering costs and fees, cost of land acquisition and site development, including parking facilities, and all other costs necessary or incidental to construct a new building or to expand, modernize, renovate, remodel or alter an existing building.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Article XIII, Section 21.5 of the California Constitution.

(f) "Department" means the State Department of Health Services.

(g) "Fund" means the Health Facility Construction Loan Insurance Fund.

(h) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the mentally retarded, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to mentally impaired persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. Except for facilities for the mentally retarded, "health facility" does not include any institution furnishing primarily domiciliary care.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the construction costs of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured

by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation organized under the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000), Division 2 of the Corporations Code) or its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, or local hospital district.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, the health facility, and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constucted for and operated and maintained by any city, county, city and county, or local hospital district.

SEC. 200. Section 436.45 of the Health and Safety Code is amended to read:

436.45. No insurance shall be provided for loans under this chapter until a statewide system of health facility planning has been established so that all hospitals as defined in Section 1401 and facilities licensed by the State Department of Health Services pursuant to Chapter 1 (commencing with Section 1200) to Chapter 2.5 (commencing with Section 1440), inclusive, except for Chapter 2.2 (commencing with Section 1340) of Division 2 of this code, have been reviewed by an area health planning agency prior to licensure. No insurance shall be provided for a loan under this chapter for a hospital or facility unless it has been finally approved through the statewide system of health facility planning.

SEC. 201. Section 436.50 of the Health and Safety Code is amended to read:

436.50. On or before July 1, 1970, the State Department of Health Services shall adopt and publish such rules and regulations to be used in approving and governing the operation of laboratories engaging in the performance of tests referred to in Sections 436.51 and 436.52, including the qualifications of the employees of such laboratories who perform such tests, as it determines are reasonably necessary to insure the competence of such laboratories and employees to prepare, analyze, and report the results of such tests. The rules and regulations shall be adopted, only after the State Department of Health Services has consulted with at least one member of each of the following groups: district attorneys, public defenders, coroners, criminalists, pathologists, analytical chemists, and such other persons deemed by the department to be qualified.

SEC. 202. Section 436.51 of the Health and Safety Code is amended to read:

436.51. The testing by or for law enforcement agencies of blood, urine, or tissue for the purposes of determining the concentration of ethyl alcohol in the blood of persons involved in traffic accidents or in traffic violations shall be performed only by a laboratory approved and licensed by the State Director of Health Services for the

performance of such tests.

SEC. 203. Section 436.52 of the Health and Safety Code is amended to read:

436.52. The testing of breath samples by or for law enforcement agencies for purposes of determining the concentration of ethyl alcohol in the blood of persons involved in traffic accidents or in traffic violations shall be performed in accordance with regulations adopted by the State Department of Health Services.

The rules and regulations shall establish the procedures to be used by law enforcement agencies in administering breath tests for the purposes of determining the concentration of ethyl alcohol in a person's blood. Such rules and regulations shall be adopted and published in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 204. Section 436.53 of the Health and Safety Code is amended to read:

436.53. Each laboratory in this state which performs the tests referred to in Sections 436.51 and 436.52, shall be licensed by the State Director of Health Services. Each such laboratory, other than a laboratory operated by the state, city or county or other public agency shall upon application for licensing pay a fee to the State Department of Health Services in an amount, to be determined by the department, which will reimburse the department for the costs incurred by the state department in the issuance and renewal of such licenses, but not to exceed one hundred dollars ($100). On or before each January 1 of each year thereafter, each such laboratory shall pay to the state department a fee so determined by the state department, not to exceed one hundred dollars ($100), for renewal of its license.

SEC. 205. Section 436.57 of the Health and Safety Code is amended to read:

436.57. Any license issued pursuant to Section 436.53 may be suspended or revoked by the State Director of Health Services for any of the reasons set forth in Section 436.59. The director may refuse to issue a license to any applicant for any of the reasons set forth in Section 436.58. The proceedings under this part shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have the powers and duties granted therein.

SEC. 206. Section 436.58 of the Health and Safety Code is amended to read:

436.58. The State Director of Health Services may deny a license if the applicant or any partner, officer or director thereof:

(a) Fails to meet the qualifications established by the department pursuant to this part for the issuance of the license applied for.

(b) Was previously the holder of a license issued under this part which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Has committed any act involving dishonesty, fraud, or deceit whereby another was injured or whereby applicant has benefited.

SEC. 207. Section 436.59 of the Health and Safety Code is amended to read:

436.59. The State Director of Health Services may suspend, revoke, or take other disciplinary action against a licensee as provided in this chapter if the licensee or any partner, officer or director thereof:

(a) Violates any of the regulations promulgated by the department pursuant to this chapter.

(b) Commits any act of dishonesty, fraud, or deceit whereby another is injured or whereby the licensee benefited.

(c) Has misrepresented any material fact in obtaining a license.

SEC. 208. Section 436.60 of the Health and Safety Code is amended to read:

436.60. The State Director of Health Services may take disciplinary action against any licensee after a hearing as provided in this part by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the director.

(b) Suspending the license.

(c) Revoking the license.

SEC. 209. Section 436.61 of the Health and Safety Code is amended to read:

436.61. Upon the effective date of any order of suspension or revocation of any license governed by this part, the licensee shall surrender the license to the State Director of Health Services.

SEC. 210. Section 436.62 of the Health and Safety Code is amended to read:

436.62. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (c) of Section 436.59, the accusation may be filed within two years after the discovery by the State Department of Health Services of the alleged facts constituting the fraud or misrepresentation prohibited by said section.

SEC. 211. Section 436.63 of the Health and Safety Code is amended to read:

436.63. After suspension of the license upon any of the grounds set forth in this article, the State Director of Health Services may reinstate the license upon proof of compliance by the applicant with all provisions of the decision as to reinstatement. After revocation of a license upon any of the grounds set forth in this part, the license shall not be reinstated or reissued within a period of one year after the effective date of revocation.

SEC. 212. Section 437.01 is added to the Health and Safety Code, to read:

437.01. Any reference in this part to the State Department of Health, the state department, or the Director of Health shall be

deemed a reference to the Office of Statewide Health Planning and Development in the Health and Welfare Agency.

SEC. 213. Section 437.7 of the Health and Safety Code is amended to read:

437.7. In order to assure availability of objective and impartial review by planning groups (referred to as area health planning agencies) of proposals for health facility projects as set forth in Section 437.10, the Advisory Health Council shall evaluate and shall designate annually no more than one area health planning agency for any area of the state designated by the council, provided such agency shall be incorporated as a nonprofit corporation and be controlled by a board of directors consisting of a majority representing the public and local government as consumers of health services with the balance being broadly representative of the providers of health services and the health professions, or alternatively be a health systems agency established pursuant to Public Law 93-641. The functions of area health planning agencies shall be the following:

(a) To review information on utilization of hospitals and related health facilities.

(b) To develop area plans to be used for the determination of community need and desirability of projects specified in Section 437.10, consistent with the regulations adopted by the state department pursuant to Section 437.8. Each such plan shall become effective upon a determination by the council that the plan is in conformance with regulations adopted pursuant to Section 437.8. The council shall integrate all such area plans into a single Statewide Health Facilities and Services Plan, which shall become effective upon formal adoption by the council.

(c) To conduct public meetings in which providers of health care and consumers will be encouraged to participate.

(d) To review applications for certificates of need as required by Section 437.10 and make recommendations to the state department as to the need and desirability for the project proposed in the application, based upon the statewide and area plans adopted pursuant to subdivision (b) or, prior to the adoption of such plans, based upon the existing plans specified in Section 437.9.

(e) To make written findings of fact and recommendations to be delivered to applicant and filed with the State Department of Health Services as a public record.

Area health planning agencies shall comply with the following requirements:

(1) The governing body of such agency shall, to the extent feasible, be composed of individuals representative of the major social, economic, linguistic, and racial populations, and geographic areas, within the area served by the agency.

(2) The agency shall hold public meetings and hearings only after reasonable public notice. Such notice shall, to the extent feasible, be publicized directly to those who, as determined by the director, are medically underserved and are in other ways denied equal access to

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good medical care.

(3) The agency shall file with the Advisory Health Council an affirmative action employment plan approved by the state department.

Area health planning agencies may divide their areas into local areas for purposes of more effective health facility planning, with the approval of the Advisory Health Council. Such local areas shall be of a geographic size and contain adequate population to insure a broad base for planning decisions. Each local area shall contain a local health planning agency which shall meet the requirements of this section.

An organization which meets the requirements of this section may make application to its area health planning agency for designation as a local health planning agency for a designated area. Within 45 days after a complete application for designation has been received, the area agency shall reach a decision concerning the application.

Each area health planning agency existing on the operative date of amendments to this section enacted during the 1976 portion of the 1975–76 Regular Session of the Legislature shall continue to function as an area planning agency pursuant to this part, and shall provide review and recommendations on applications for certificates of need until such time as one or more designated health systems agencies are fully operational, as determined by the Advisory Health Council in the area served, or formerly served, by the respective area health planning agency.

If the Advisory Health Council determines that an area health planning agency approved under this section is dissolved or unable to carry out the functions required by this part, the state department shall fulfill the responsibilities of an area health planning agency pursuant to this part in the area until such time as another area health planning agency is designated by the Advisory Health Council for such area and becomes fully operational.

Adoption of regulations setting forth administrative procedures for area and local area health planning agencies shall be made by the state department pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 214. Part 1.95 (commencing with Section 446) is added to Division 1 of the Health and Safety Code, to read:

PART 1.95. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

446. There is in the state government, in the Health and Welfare Agency, an Office of Statewide Health Planning and Development.

446.1. The Office of Statewide Health Planning and Development is under the control of an executive officer known as the Director of Statewide Health Planning and Development, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. He shall

receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

446.2. The Director of Statewide Health Planning and Development shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

446.3. The Office of Statewide Health Planning and Development succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health relating to health planning and research development.

446.4. The Office of Statewide Health Planning and Development may use the unexpended balance of funds available for use in connection with the performance of the functions of the State Department of Health to which it has succeeded pursuant to Section 446.3.

446.5. All officers and employees of the State Department of Health, who, on the operative date of this section, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Office of Statewide Planning and Development by Section 446.3 shall be transferred to the Office of Statewide Health Planning and Development. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Office of Statewide Health Planning and Development, pursuant to the State Civil Service Act except as to positions exempted from civil service.

446.6. The Office of Statewide Health Planning and Development shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land or other property, real or personal, held for the benefit or use of the State Department of Health for the performance of functions transferred to the Office of Statewide Health Planning and Development by Section 446.3.

446.7. All officers or employees of the Office of Statewide Health Planning and Development employed after the operative date of this section shall be appointed by the Director of Statewide Health Planning and Development.

446.8. The Office of Statewide Health Planning and Development shall develop by July 1, 1980, a master plan for services to children and youth which shall include, but not be limited to, the following:

(a) A description of services and programs being provided to children and youth by public and private agencies.

(b) A listing of potential public and private funding sources for development and expansion of services to children and youth.

(c) A proposal for establishing and constituting an Advisory Council on Children and Youth.

(d) A study of the feasibility of establishing within the Health and

Welfare Agency a State Department of Services to Children and Youth.

The Legislature recognizes the need to coordinate the management of the programs of the departments within the Health and Welfare Agency which serve children and youth.

SEC. 215. Section 452 of the Health and Safety Code is amended to read:

452. The county health officer shall enforce and observe in the unincorporated territory of his county, all of the following:

(a) Orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters.

(b) Orders, quarantine and other regulations, and rules prescribed by the State Department of Health Services.

(c) Statutes relating to public health.

SEC. 216. Section 541 of the Health and Safety Code is amended to read:

541. The governing body of a city, county, or local health district may employ on a full-time basis one or more sanitarians each of whom shall be a registered sanitarian as provided for in this article for the purpose of the enforcement of such state statutes relative to public health, and such rules and regulations of the State Department of Health Services, and any local ordinances of a city, county or local health district that relate to the inspection of food products, water supplies, sewage disposal, food establishments, general sanitation or housing; provided, however, that any person who shall be known as assistant sanitarian may without a certificate of registration be employed to work under the supervision of a registered sanitarian until such time as he may be qualified by examination as provided under subdivision (b) of Section 542, such time not to exceed two years of such employment.

SEC. 217. Section 551 of the Health and Safety Code is amended to read:

551. The advisory committee shall consist of the Chief of the Local Environmental Health Programs Section, State Department of Health Services, or his designate, who shall serve as chairman ex officio, but who shall not vote, and the following nine members who shall be residents of the state:

(a) Two members from the California Conference of Directors of Environmental Health who shall be registered as sanitarians by the department and shall have had at least two years' experience as directors in the State of California.

(b) Three members, each of whom shall be a qualified, practicing sanitarian who has been registered by the State of California for a period of five or more years.

(c) One member from the California Conference of Local Health Officers.

(d) Two members from the faculty of those California State University and Colleges which have curricula leading to a degree in environmental health.

(e) One public member. The public members shall not have been engaged at any time within five years immediately preceding his appointment in pursuits which lie within the field of environmental health or the profession regulated by the advisory committee of which he is a member.

SEC. 218. Section 1101 of the Health and Safety Code is amended to read:

1101. "Population," for the purpose of this chapter, shall be determined by the most recent United States decennial census; provided, however, whenever it appears to the State Department of Health Services that the population of any city, county, or city and county has changed sufficiently to warrant adjustment, the State Department of Health Services for purposes of this chapter may request the Population Research Unit of the Department of Finance to determine the population for cities, counties, and cities and counties.

SEC. 219. Section 1102 of the Health and Safety Code is amended to read:

1102. For the purposes of this chapter a "local health department" shall be interpreted to mean any one of the following public health administrative organizations:

(a) A local health district created pursuant to former Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, which includes territory in one or more counties, and which includes at least all of the cities which have less than 50,000 population in such county or counties.

(b) A local health department serving one or more counties which shall on September 19, 1947, and thereafter provide services to all cities whose population is less than 50,000 in addition to the unincorporated territory of such county or counties.

(c) A county health department which does not serve all of the cities of less than 50,000 population, but which has the provisional approval of the State Department of Health Services, in accordance with Section 1140.

(d) The health department of a city of 50,000 or greater population, except that the governing body of such city by resolution may declare its intention to be included under the jurisdiction of the county health department, or of the local health district serving other territory in such county, as provided by existing statutes.

(e) The local health department of any county which had under its jurisdiction on September 19, 1947, a population in excess of 1,000,000, or the local health department of any city and county.

SEC. 220. Section 1110 of the Health and Safety Code is amended to read:

1110. There is hereby established a California Conference of Local Health Officers with which the state department shall consult in establishing standards as provided in this chapter and may consult on other matters affecting health. The conference may consult with, advise, and make recommendations to the State Department of

Health Services, other departments, boards, commissions and officials of federal, state, and local government, the Legislature, and any other organization or association on matters affecting health. The conference shall consist of all legally appointed local health officers in the state. It shall organize, adopt bylaws, and shall annually elect officers.

Actual and necessary expenses, including any necessary registration fee, incident to attendance at not more than two meetings per year of the conference shall be a legal charge against the local governmental unit. Actual and necessary expenses incident to attendance at special meetings of the committees of the conference called by the director shall be a legal charge against any funds available for administration of this chapter.

SEC. 221. Section 1110.5 of the Health and Safety Code is amended to read:

1110.5. Nothing in this chapter or in any rule or regulation prescribed by the State Department of Health Services in accordance herewith shall compel any practitioner who treats the sick by prayer in the practice of the religion of any well-recognized church, sect, denomination, or organization or any persons covered by Sections 2731 and 2800 of the Business and Professions Code to give any information about a disease or disability which is not infectious, contagious, or communicable or authorize any compulsory education, medical examination, or medical treatment.

SEC. 222. Section 1111 of the Health and Safety Code is amended to read:

1111. The State Department of Health Services shall administer this chapter and shall adopt rules and regulations necessary thereto; provided, however, that such rules and regulations shall be adopted only after consultation with and approval by the California Conference of Local Health Officers. Approval of such rules and regulations shall be by majority vote of those present at an official session.

SEC. 223. Section 1112 of the Health and Safety Code is amended to read:

1112. The State Department of Health Services may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by said department, and for the establishment and maintenance of field training centers in local health departments and in the State Department of Health Services.

SEC. 224. Section 1113 of the Health and Safety Code is amended to read:

1113. Within any county in which 10 percent or more of the population, as determined by the Population Research Unit of the Department of Finance, speaks any one language other than English as its native language, every local health department shall make copies of circulars and pamphlets relating to family planning which are made available to the public also available in such other language.

The State Department of Health Services, upon request, shall make a translation available in other than English those family planning informational materials normally distributed to the general public.

SEC. 225. Section 1130 of the Health and Safety Code is amended to read:

1130. The State Department of Health Services, after consultation with and approval by the Conference of Local Health Officers, shall by regulations establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. Such standards may include standards for the maintenance of records of services, finances and expenditures, which shall be reported to the State Director of Health Services in a manner and at such times as he may specify.

SEC. 226. Section 1140 of the Health and Safety Code is amended to read:

1140. Provisional approval may be given by the State Department of Health Services to a county health department which meets minimum standards as provided for in this chapter, but which does not serve all cities of less than 50,000 population within such county.

SEC. 227. Section 1142 of the Health and Safety Code is amended to read:

1142. The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Benefit Payments with respect to the processing, audit, and payment of funds appropriated for the purposes of this article to the administrative bodies of qualifying local health departments.

SEC. 228. Section 1143 of the Health and Safety Code is amended to read:

1143. The State Department of Health Services shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 1142.

SEC. 229. Section 1144 of the Health and Safety Code is amended to read:

1144. All officers and employees of the Director of Benefit Payments who on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 1142 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees

of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 230. Section 1153 of the Health and Safety Code is amended to read:

1153. After determining the total amounts available to each area, the State Department of Health Services shall notify the governing body of each local health department of such amount, and of the conditions governing its availability.

SEC. 231. Section 1155 of the Health and Safety Code is amended to read:

1155. No funds appropriated for the purposes of this article shall be allocated to any local health department whose professional and technical personnel and whose organization and program do not meet the minimum standards established by the State Department of Health Services.

SEC. 232. Section 1155.5 of the Health and Safety Code is amended to read:

1155.5. Notwithstanding Section 1155, a county board of supervisors or health district board may, upon the concurrence of the Director of Health Services, transfer the total function of providing environmental health and sanitation services and programs to a comprehensive environmental agency of the county other than the county or district health department. Such a county or district shall continue to receive funds appropriated for the purposes of this article if it complies with all other minimum standards established by the State Department of Health Services and if the environmental health and sanitation services and programs are maintained at levels of quality and efficiency equal to or higher than the levels of the services and programs as formerly provided by the county or district health department.

SEC. 233. Section 1155.6 of the Health and Safety Code is amended to read:

1155.6. If such transfer is made:

(a) Each agency shall employ as the immediate supervisor of the environmental health and sanitation services a director of environmental health who is a registered sanitarian and such agency shall employ an adequate number of registered sanitarians to carry on the program of environmental health and sanitation services.

(b) Wherever, in any statute, rule, regulation, resolution, or order, a power is granted to, or a duty is imposed upon, a county or district health officer, county health department, or county health district pertaining to environmental health and sanitation services and programs transferred by the board of supervisors or health district board, such powers and duties shall be delegated by the local health officer to the director of environmental health and such powers and duties shall thereafter be administered by the director of environmental health.

(c) The State Department of Health Services shall adopt rules and regulations pertaining to minimum program and personnel

requirements of such environmental health and sanitation services and programs. The State Department of Health Services shall periodically review such programs to determine if minimum requirements are met.

(d) Whenever the board of supervisors or health district board determines that the expenses of its environmental health director in the enforcement of any statute, order, quarantine, rule, or regulation prescribed by a state officer or department relating to environmental health and sanitation are not met by any fees prescribed by the state, such board may adopt an ordinance prescribing such fees as will pay the reasonable expenses of such director incurred in such enforcement. The schedule of fees prescribed by ordinance of the board of supervisors or health district board shall be applicable in the area in which the environmental health director enforces any statute, order, quarantine, rule, or regulation prescribed by a state officer or department relating to environmental health and sanitation.

SEC. 234. Section 1156 of the Health and Safety Code is amended to read:

1156. The basic and per capita allotments shall be paid quarterly to the administrative body of each qualifying local health department. Each quarterly payment may be adjusted on a basis of the actual expenditures during the previous quarter, if such adjustment is necessary to maintain the minimum proportional relationship of state and local expenditures as outlined in Section 1154. The State Department of Health Services shall certify to the State Controller the amounts to be paid to each local health department each quarter and the State Controller shall thereupon draw the necessary warrants, and the State Treasurer shall pay to the administrative body of each local health department the amount so certified. Any such payments may be withheld by the State Department of Health Services if a local health department fails to continue to meet the minimum standards established, provided that not less than 45 days' advance notice of intention to withhold such payments, and the reasons therefor, shall be given to the governing body of the local health department.

SEC. 235. Section 1157 of the Health and Safety Code is amended to read:

1157. In lieu of any other provisions of this chapter, upon request of the board of supervisors of any county of less than 40,000 population and upon the appropriation for public health purposes by such county of a sum of not less than fifty-five cents ($0.55) per capita for the total county population, the State Department of Health Services may organize and operate a local public health service in such county. The State Department of Public Health may conduct such local public health service either directly, or by contract with other agencies, or by some combination of these methods as may be agreed upon by the State Department of Health Services and the board of supervisors of the county concerned. The creation of a

county board of public health or a similar local advisory group shall be at the discretion of the board of supervisors. The state financial assistance which is appropriated for public health services in counties which have not qualified or do not elect to qualify for such funds under other provisions of this chapter, is hereby made available to the State Department of Health Services for such purposes. Funds expended pursuant to this section shall be in accordance with law regarding expenditures of money appropriated out of the State Treasury, including those in the Budget Act and any applicable provisions of the Government Code.

SEC. 236. Section 1176 of the Health and Safety Code is amended to read:

1176. Unless the context otherwise requires, the definitions in this section govern the construction of this part:

(a) "Department" means the State Department of Health Services.

(b) "Director" means the State Director of Health Services.

(c) "Medi-Cal" means the program for providing health care as specified in the Medi-Cal Act in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) "Health maintenance organization" means an organization which provides basic health care, including at least the following:

(1) Inpatient hospital services;

(2) Outpatient hospital services;

(3) Laboratory and X-ray services;

(4) Physician services;

(5) Prescribed drugs.

(e) "Subscriber" means a person who receives health care services from a health maintenance organization.

SEC. 237. Section 1185 of the Health and Safety Code is amended to read:

1185. The Legislature makes the following findings and declarations:

(a) There is a maldistribution of health services in California. Most rural areas of the state do not have adequate health services because there are insufficient health personnel and facilities and inadequate transportation to such services.

(b) The lack of health services in rural areas has a negative impact on the health and safety of the public

(c) Existing public programs to meet the problem of inadequate health services in rural areas are not sufficient in scope nor properly coordinated to significantly improve the availability of health services.

(d) It is unlikely that the situation will improve without substantial state and local action.

It is, therefore, the intent of the Legislature in enacting this part to establish a program of rural health services in the State Department of Health Services. The purpose of the program is to

improve the coordination of existing rural health services and to increase the amount and availabilty of the services.

The Legislature intends that the program consist of (1) California Health Services Corps in which health personnel are assigned to health care delivery organizations, (2) health services development projects, in which new health care delivery organizations are established, and (3) an organizational unit within the Department of Health to coordinate rural health programs.

SEC. 238. Section 1185.1 of the Health and Safety Code is amended to read:

1185.1. The State Department of Health Services shall implement a program to remedy deficiencies in health services in rural areas. The state department shall have responsibility for the following elements:

(a) California Health Services Corps.

(b) California Rural Health Services Development Projects.

(c) Coordination of Rural Health Programs.

SEC. 239. Section 1186 of the Health and Safety Code is amended to read:

1186. The director shall establish in the State Department of Health Services a California Health Services Corps. The purpose of the corps is to make available health personnel to rural areas which are presently receiving inadequate health services. The corps shall consist of physicians and surgeons, dentists, vision care providers, and other health professionals, such as nurse practitioners, physician assistants, nurses, dental hygienists, dental assistants, health educators, nutritionists, dietitians, health and nutrition aides, and such other personnel as the director finds necessary to meet the purposes of the program.

SEC. 240. Section 1187.1 of the Health and Safety Code is amended to read:

1187.1. Applications may be made for funds for health services development projects and such projects may be initiated and operated by any agency, including, but not limited to:

(a) A community agency, including a National Health Services Corps site.

(b) An ongoing rural health program, including migrant health or Indian health program.

(c) A family practice education program.

(d) A county health department.

(e) The State Department of Health Services.

(f) Any health facility or clinic.

SEC. 241. Section 1204 of the Health and Safety Code is amended to read:

1204. The provisions of this chapter do not apply to the following:

(a) Any clinic conducted, maintained or operated by the United States government, or by any of its departments, officers or agencies or by this state, or by any of its political subdivisions or districts, or by any city.

(b) Clinics conducted, maintained, or operated as outpatient departments of hospitals.

(c) Any clinic conducted, maintained, or operated by any establishment or institution licensed by the State Department of Health Services exclusively for care and treatment of any mentally disordered or other incompetent person referred to in Division 5 or 6 of the Welfare and Institutions Code.

SEC. 242. Section 1210 of the Health and Safety Code is amended to read:

1210. Any person desiring a license under the provisions of this chapter shall file with the State Department of Health Services a verified application on a form prescribed and furnished by the department, containing:

(a) The name and address of the clinic.

(b) The name and address of the applicant who is responsible for control, management, and direction of the clinic.

(c) The name and address of the professional licentiate responsible for the professional activities of the clinic.

(d) The class of clinic to be operated.

(e) Complete information on the character and scope of advice and treatment to be provided.

(f) Complete description of the building, its location, facilities, equipment, apparatus, and appliances to be furnished and used in the operation of the clinic.

(g) Source and anticipated amount of funds and income for the operation of the clinic covering the year for which the application is made.

(h) Anticipated volume of service to be rendered, the anticipated unit cost, and the anticipated unit charge to be made to patients, covering the year for which the application is made.

(i) Justification for the operation of the clinic.

(j) Such additional information as may be required by the department for the proper administration and enforcement of this chapter.

SEC. 243. Section 1213 of the Health and Safety Code is amended to read:

1213. Every clinic for which a license has been issued shall be periodically inspected by a duly authorized representative of the state department. The state department may delegate such of its authority under this chapter as it deems advisable to local health departments, the staffs and inspectoral services of which have the written approval of the state department. Reports of each inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the department filed with the state department.

SEC. 244. Section 1236 of the Health and Safety Code is amended to read:

1236. Any officer, employee or agent of the State Department of Health Services may enter and inspect any building or premises at

any reasonable time to secure compliance with or to prevent a violation of any provision of this chapter.

SEC. 245. Section 1237 of the Health and Safety Code is amended to read:

1237. The district attorney of every county shall, upon application by the State Department of Health Services, or its authorized representative, institute and conduct the prosecution of any action for violation within his county of any provision of this chapter.

SEC. 246. Section 1260 of the Health and Safety Code is amended to read:

1260. (a) As used in this section, "nonprofit hospital" means a general acute care hospital, or an acute psychiatric hospital, owned and operated by a fund, foundation, or corporation, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) A nonprofit hospital may exercise the right of eminent domain to acquire property necessary for the establishment, operation, or expansion of the nonprofit hospital if both of the following requirements are satisfied:

(1) The property to be acquired by eminent domain is adjacent to other property used or to be used for the establishment, operation, or expansion of the nonprofit hospital.

(2) The State Director of Health Services has certified, after the public hearing required by subdivision (c), that (i) the acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital, (ii) the public interest and necessity require the proposed project, and (iii) the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The State Director of Health Services shall adopt reasonable regulations which will provide for a public hearing to be conducted by a hearing officer in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code in the area where the hospital is located to determine the necessity of the proposed project and of any acquisition of property for the project. Written notice of the hearing shall be given to the voluntary area health planning agency, if one exists, in the area where the hospital is located. The voluntary area health planning agency so notified shall make its recommendations to the hearing officer within 90 days from the receipt of notice. No hearing shall be held prior to the expiration of such 90-day period unless the hearing officer has received the recommendations of the voluntary area health planning agency. At the public hearing, the hearing officer shall insure that the hearing, in part at least, considers the impact of the proposed project upon the delivery of health care services in the community and upon the environment, as gathered from an environmental impact report. The applicant and all interested

parties to the acquisition, including the voluntary area health planning agency, have the right to representation by counsel, the right to present oral and written evidence, and the right to confront and cross-examine opposing witnesses. A transcript of the public hearing shall be filed with the State Department of Health Services as a public record.

SEC. 248. Section 1283 of the Health and Safety Code is amended to read:

1283. (a) No health facility shall surrender the physical custody of a minor under 16 years of age to any person unless such surrender is authorized in writing by the child's parent or the person having legal custody of the child.

(b) A health facility shall report to the State Department of Health Services, on forms supplied by the department, the name and address of any person and, in the case of a person acting as an agent for an organization, the name and address of the organization, into whose physical custody a minor under the age of 16 is surrendered, other than a parent, relative by blood or marriage, or person having legal custody. Such report shall be transmitted to the department within 48 hours of the surrendering of custody. No report to the department is required if a minor under the age of 16 is transferred to another health facility for further care or if such minor comes within Section 300, 601, or 602 of the Welfare and Institutions Code and is released to an agent of a public welfare, probation, or law enforcement agency

SEC. 249. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The provisions of this chapter shall apply to health care service plans and specialized health care service plans as defined in subdivisions (f) and (m) of Section 1345.

(b) The commissioner may by the adoption of such rules as deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class or persons or plan contracts, if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of such persons or plan contracts is not essential to the purposes of this chapter.

(c) The commissioner, upon request of the State Director of Health Services, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health Services pursuant to Section 14310 of the Welfare and Institutions Code. Such exemption may be subject to such conditions as the commissioner deems appropriate.

(d) The provisions of this chapter shall not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through such entity-owned or contracting health facilities and providers, in which case the

provisicns of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) The provisions of Section 1357 shall not apply to:

(1) A plan, or to any officer, director, or partner of a plan acting in the course of their employment by such plan, unless such officer, director, or partner receives compensation specifically related to the sale of subscriptions or enrollments to the plan.

(2) A provider, or an employee of a provider or of a plan, who disseminates information about the plan only incidentally to such employment and at the unsolicited request of a subscriber, enrollee, or member of the public.

(3) A person who disseminates information concerning plans and plan benefits only as a public employee, only as an employee or representative of a subscriber group, or only as an employee of a person contracting with a plan on behalf of subscribers or enrollees.

SEC. 250. Section 1347 of the Health and Safety Code is amended to read:

1347. (a) There is established in the Department of Corporations a Health Care Service Plan Advisory Committee consisting of 14 members. The members shall consist of the commissioner or the commissioner's designee; a physician and surgeon with five years experience in providing services to enrollees of a health care service plan; a person with expertise and five years experience in an administrative capacity of a hospital-based plan; a person with five years experience with a corporation formed under Section 9201 of the Corporations Code; a person with five years experience with a medical foundation; a person with five years experience in an administrative capacity with a non-hospital-based health care service plan; a person with five years experience in an administrative capacity with a specialized health care service plan; a certified public accountant with five years experience in auditing plans; and six public members having no financial interest in the delivery of health care services or in plans except for being enrolled in a health care service plan or specialized health care service plan.

The six public members shall include at least one person enrolled in a specialized health care service plan, one person enrolled in a medical foundation, one person enrolled in a prepaid health plan under contract with the State Department of Health Services pursuant to the Waxman-Duffy Prepaid Health Plan Act and a member of a hospital-based health care service plan.

The members shall be appointed by the commissioner for a term of three years, except that of the members first appointed four shall

serve for a term of one year and five shall serve for a term of two years, as designated by the commissioner.

The committee shall meet at the call of the commissioner and the commissioner, or the commissioner's designee, shall be chairman of the committee. All members shall serve without compensation, but shall be reimbursed from department funds for the expenses actually and necessarily incurred by them in the performance of their duties.

(b) The purpose of the committee is to assist and advise the commissioner in the implementation of the commissioner's duties under this chapter. The commissioner shall consult with the advisory committee on regulations and the recommendations of the committee shall be made a part of the record with regard to such regulations.

SEC. 251. Section 1367 of the Health and Safety Code is amended to read:

1367. Each health care service plan, and where applicable, each specialized health care service plan, shall meet the following requirements:

(a) All facilities located in this state including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan shall be licensed by the State Department of Health Services, if such licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where such licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for such equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at such times as may be appropriate consistent with good professional practice.

(e) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, subsequent providers, and other persons furnishing services, equipment, or facilities to or in connection with the plan, shall be fair, reasonable, and consistent

with the objectives of this chapter.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from such requirement. The commissioner shall by rule define the scope of each basic health care service which health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that such copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

SEC. 252. Section 1380 of the Health and Safety Code is amended to read:

1380. (a) The department shall conduct periodically an onsite medical survey of the health delivery system of each plan. The survey shall include a review of the procedures for obtaining health services, the procedures for regulating utilization, peer review mechanisms, internal procedures for assuring quality of care, and the overall performance of the plan in providing health care benefits and meeting the health needs of the subscribers and enrollees.

(b) The survey shall be conducted by a panel of qualified health professionals experienced in evaluating the delivery of prepaid health care. The department shall be authorized to contract with professional organizations or outside personnel to conduct medical surveys. Such organizations or personnel shall have demonstrated the ability to objectively evaluate the delivery of health care by plans or health maintenance organizations.

(c) Surveys performed by this section shall be conducted as often as deemed necessary by the commissioner to assure the protection of subscribers and enrollees, but not less frequently than once every five years. Nothing in this section shall be construed to require the survey team to visit each clinic, hospital office, or facility of the plan. To avoid duplication the commissioner shall employ, but is not bound by, the following:

(1) In hospital-based health care service plans, to the extent necessary to satisfy the requirements of this section, the findings of inspections conducted pursuant to Section 1279 of this code.

(2) In health care service plans contracting with the State Department of Health Services pursuant to the Waxman-Duffy Prepaid Health Plan Act, the findings of reviews conducted pursuant to Section 14456 of the Welfare and Institutions Code.

(3) To the extent feasible, reviews of providers conducted by professional standards review organizations.

(d) Nothing in this section shall be construed to require the medical survey team to review medical records. However, the commissioner shall be authorized to require such review where necessary to determine that quality health care is being delivered to subscribers and enrollees. Where medical record review is authorized, the survey team shall insure that the confidentiality of physician-patient relationship is safeguarded in accordance with existing law and neither the survey team nor the commissioner or the commissioner's staff may be compelled to disclose such information except in accordance with the physician-patient relationship.

(e) The procedures and standards utilized by the survey team shall be made available to the plans prior to the conducting of medical surveys.

(f) During the survey the members of the survey team shall offer such advice and assistance to the plan as deemed appropriate.

(g) The commissioner shall notify the plan of deficiencies found by the survey team. The commissioner shall give the plan a reasonable time to correct the deficiencies and failure on the part of the plan to comply to the commissioner's satisfaction shall constitute cause for disciplinary action against the plan.

(h) Reports of all surveys, deficiencies, and correction plans shall be open to public inspection, except that no surveys, deficiencies, or correction plans shall be made public unless the plan has had an opportunity to review the survey and file a statement or response within 30 days, to be attached to the report. Deficiencies shall not be made public if they are corrected within 30 days of the date that the plan was notified.

(i) Nothing in this section shall be construed as affecting the commissioner's authority pursuant to Article 7 (commencing with Section 1386) or Article 8 (commencing with Section 1390) of this chapter.

SEC. 253. Section 1457 of the Health and Safety Code is amended to read:

1457. The State Department of Health Services, with the advice of the State Department of Social Services, shall prescribe the records to be kept by county hospitals of persons received into or discharged from such institutions, including, but not limited to, records for the admission and processing of county hospital patients.

The records shall be preserved and maintained pursuant to regulations adopted by the department, or at the request of the county physician or other person in charge of the county hospital, the board of supervisors of the county may authorize the destruction of any record, paper or document prescribed by the department following compliance with the conditions prescribed in Section 26205 of the Government Code.

SEC. 254. Section 1481.2 of the Health and Safety Code is

amended to read:

1481.2. Each county conducting a pilot program pursuant to this article shall submit an annual report to the Legislature and to the State Department of Health Services, not later than January 31 of each calendar year, evaluating any such pilot program conducted by the county. The report shall include an evaluation of the competency and effectiveness of the performance by the mobile intensive care paramedics in their duties in staffing rescue units and in the rendering of medical and nursing care pursuant to this article. The report may include recommendations relating to the extension or modification of the provisions of this article.

SEC. 256. Section 1494 of the Health and Safety Code is amended to read:

1494. The State Department of Health Services shall, by regulation, adopt a standard and complete protocol for the examination and treatment of a victim of rape or other sexual assault.

Medical personnel in a county hospital who examine or treat a victim of rape or other sexual assault shall utilize the protocol.

The department shall transmit a copy of the protocol to every county hospital, private general acute care hospital, and public general acute care hospital.

SEC. 257. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter, "community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons, and includes the following:

(a) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(b) "Day care center" means any facility which provides nonmedical care to persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(c) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(d) "Multipurpose senior center" means a center established pursuant to Chapter 5 (commencing with Section 9400) of Division 8.5 of the Welfare and Institutions Code.

(e) "Department," as used in this chapter, means the State Department of Social Services.

(f) "Director," as used in this chapter, means the Director of Social Services.

SEC. 258. Section 1600.6 of the Health and Safety Code is

amended to read:

1600.6. "Department" means the State Department of Health Services.

SEC. 259. Section 1651 of the Health and Safety Code is amended to read:

1651. The State Department of Health Services shall administer the provisions of this chapter.

Every provision of this chapter shall be liberally construed to protect the interests of all persons and animals affected.

As used in this chapter, "person" includes: laboratory, firm, association, corporation, copartnership, and educational institution.

As used in this chapter, "board" or "department" means the State Department of Health Services.

SEC. 260. Section 1685 of the Health and Safety Code is amended to read:

1685. The governing body of a city, county, city and county or school district may employ one or more school audiometrists, each of whom shall be registered with the State Department of Health Services and possess such qualifications as may at the date of registration be prescribed by the state department.

Audiometric testing as conducted by the qualified school audiometrist, pursuant to Section 13300 of the Education Code, or by other qualified certificated school personnel, as defined in Sections 11751 and 11824 of the Education Code, shall meet the standards which the State Department of Health Services determines necessary to insure the adequacy of hearing testing in the schools. Subject to Section 11822 of the Education Code, audiometric tests may be administered to school and preschool children in school buildings and other places as are or may be used by schools, health departments or other agencies that provide qualified personnel to conduct such tests.

SEC. 261. Section 1686 of the Health and Safety Code is amended to read:

1686. The State Department of Health Services shall, subject to the provisions of Section 1685, issue certificates of registration to school audiometrists and to qualified supervisors of health, pursuant to Sections 11751 and 11823 of the Education Code. The department shall prescribe such qualifications as may be necessary for the testing of the hearing of schoolchildren.

Candidates for registration who present evidence of having satisfactorily completed the required training in audiology and audiometry at an accredited university or college, as prescribed by the State Department of Health Services, may be issued certificates of registration without further examination.

The state department shall require a registration fee not in excess of ten dollars ($10) for each certificate issued. Such fee shall be based upon a determination by the department as to the amount that is reasonably necessary to pay for the costs of the issuance of certificates of registration.

SEC. 262. Section 1701 of the Health and Safety Code is amended to read:

1701. There is in the State Department of Health Services a Cancer Advisory Council composed of nine physicians and surgeons licensed to practice medicine in, and residing in, this state, three persons who are not physicians and surgeons, two persons representing nonprofit cancer research institutes recognized by the National Cancer Institute, and the director of the department, who shall be an ex officio member. The members of the council shall be appointed by the Governor to serve for terms of four years. The Governor, in appointing the first members, shall appoint at least one member from the faculty of each of the schools teaching medicine and surgery and located in this state that are approved by the State Board of Medical Examiners. The Governor shall endeavor to maintain one member from the faculty of each school in making subsequent appointments.

SEC. 263. Section 1725 of the Health and Safety Code is amended to read:

1725. It is the purpose of this chapter to license home health agencies in order to permit certain agencies to meet the requirements of federal law as provided in Public Law 89-97, the Social Security Amendments of 1965. By passing a licensing act it is the intent of the Legislature to allow all those who are qualified to provide home health services to the people of California. It is the further intent that the State Department of Health Services shall establish high standards of quality for home health agencies which provide such services.

SEC. 264. Section 1727 of the Health and Safety Code is amended to read:

1727. As used in this chapter, the following terms have the meanings set forth in this section:

(a) "State department" means the State Department of Health Services.

(b) "Home health agency" means a public agency or private organization, or a subdivision of any such agency or organization, which—

(1) Is primarily engaged in providing skilled nursing services and other therapeutic services to patients in the home on a part-time or intermittent basis, including but not limited to a licensed hospital, sanatorium, nursing or convalescent home or local health department which incidentally to its primary function provides health services in the home environment;

(2) Has policies, established by a group of professional personnel, including one or more physicians and one or more public health nurses as certified by the state department pursuant to Section 600 of this code, to govern the services which it provides, and provides for supervision of such services by a physician or registered nurse, provided that skilled nursing services shall be supervised by a registered nurse. Such policies shall be written and include, but not

be limited to, those concerning patient care, personnel, training and indoctrination, supervision and program evaluation;

(3) Maintains clinical records on all patients, including a plan of treatment prescribed by the patient's physician; and

(4) Meets such other standards, rules and regulations adopted by the state department.

(c) "Skilled nursing services" means those services ordinarily provided by a registered nurse or licensed vocational nurse in the home environment to patients under a plan of treatment prescribed by the patient's physician who is licensed to practice medicine in the state.

(d) "Other therapeutic services" includes but is not limited to physical, speech or occupational therapy; medical social services; and home health aide services.

(e) "Home health aide services" means those services ordinarily provided by an unlicensed person, including a practical nurse, who is employed by a home health agency to provide supportive services to the patient in the home under the supervision of a registered nurse or a physical, speech, or occupational therapist.

SEC. 265. Section 1760 of the Health and Safety Code is amended to read:

1760. The State Department of Health Services shall maintain, in cooperation with local agencies, an emergency medical services program including, but not limited to, the following:

(a) Collection of data on the use of emergency medical services which will be of value in their development.

(b) Evaluation of emergency medical services.

(c) Establishment of recommended standards for emergency medical services.

(d) Provision of plans whereby community medical emergency services can be augmented by assistance from nearby communities and from other resources throughout the state at large.

(e) Providing consultation services with the emergency medical care committee of each county established under Section 1750 of this code.

(f) Establishment of emergency medical training and educational standards for ambulance personnel.

SEC. 266. Section 1760.6 of the Health and Safety Code is amended to read:

1760.6. The Advisory Committee on Emergency Medical Services is hereby created and established in the State Department of Health Services. The committee shall advise the director on regulations to be adopted by the department for implementation of this article. The committee may give the director general advice in regard to communications, medical equipment, training, personnel, facilities, and other subjects relating to emergency medical services. The committee shall be composed of 18 members. The Governor shall appoint 16 members as follows: one representative of a private ambulance company, one hospital administrator, three physicians

and surgeons, two of whom are primarily engaged in the practice of emergency medical care, and one of whom is in private practice, three licensed professional nurses who are licensed pursuant to the provisions of Chapter 6 (commencing with Section 2700) or Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code, two of whom are primarily engaged as an emergency registered nurse, one county health officer, one mobile intensive care paramedic, as defined in subdivision (a) of Section 1481, two public members, one of whom has been active in community efforts to improve emergency medical services, one representative of a public emergency medical services agency, one chief of a city or county fire department or fire protection district, one representative of the Department of the California Highway Patrol, and one representative of the State Department of Health Services, who shall serve as chairman.

The Senate Rules Committee and the Speaker of the Assembly shall each appoint one public member.

The members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for their actual, necessary traveling and other expenses incurred in the discharge of their duties.

The committee shall meet on the call of the chairman.

SEC. 267. Chapter 10 (commencing with Section 1770) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 10. SUPERVISION OF LIFE CARE CONTRACTS

1770. Any organization or person may receive transfers of property from an aged person, conditioned upon an agreement to furnish life care or care for a period of more than one year, which agreement may include the cash payment of personal and incidental expenses to the transferor or his nominee; provided, such organization or person has received a written license pursuant to Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of this division, and such organization or person has been granted a certificate of authority by the state department.

Organizations or persons who furnish care exclusively under agreements, which may be canceled by either party without cause, are required to obtain a certificate of authority from the state department for all agreements issued after October 1, 1957, if payment or transfer of property is made in advance to cover cost of care for one year or more; provided, however, that, if any such organization or person is a nonprofit benevolent organization, which accepts property in an amount less than the cost of care, the amount of reserve required of it under Section 1775 shall be reduced in the same proportion as the estimated cost of care bears to the value of the property transferred.

1771. As used in this chapter "contracts" or "agreements" means

both life care contracts and continuing care agreements.

1772. When necessary to secure the performance of all obligations of the certificate holder to transferors, the state department may record with the recorder of any county a notice of lien on behalf of the transferors. From the time of such recording, there exists a lien on all real property of the certificate holder, not exempt from excecution owned by him at the time or which he may afterward acquire before the release of the lien, and located within the county where such notice is recorded. The state department shall file a release of the lien upon proof of complete performance of all obligations to transferors, or upon the filing of a bond meeting the conditions set forth in Section 1773. The state department may file a release of the lien if the state department deems the lien no longer necessary to secure the performance of all obligations of the certificate holder to the transferors. The certificate holder may appeal to the state department from a refusal of a request for release of the lien. The decision of the board shall be subject to court review pursuant to Section 1094.5 of the Code of Civil Procedure, upon petition of the certificate holder filed within 30 days of service of the decision.

1773. Before issuing the certificate of authority, the state department may, if it deems it necessary to safeguard the interests of the aged in the state, require any applicant for a certificate to file with the state department, and maintain in effect during the period that the certificate of authority is in force, a bond executed by an admitted surety insurer, in an amount satisfactory to the state department, conditioned that the principal will faithfully perform all obligations undertaken by him pursuant to the certificate of authority, to and for the use and benefit of all persons who may be injured or aggrieved by the failure of the principal to perform any such obligation, and any person so injured or aggrieved may bring suit on such bond, in his own name, without an assignment thereof.

1774. Before issuing the certificate of authority, the state department shall require that any agent or employee of the applicant, who, in the course of his agency or employment, has access to any substantial amount of funds furnish, and maintain in effect during the period that the certificate of authority is in force, a surety bond in such form and penal sum as the state department finds necessary to protect all persons from loss of the funds.

1775. Any organization or person receiving a certificate of authority to enter into care agreements shall maintain reserves covering obligations assumed under all agreements entered into and maintained. Such reserves shall be in an amount not less than the sum computed in accordance with the standard of valuation based upon a modern and up-to-date table of mortality selected by the state department in consultation with the Department of Insurance. The table of mortality shall be employed in connection with all care agreements entered into on or after January 1, 1958, while McClintock's table of mortality among annuitants shall be employed

in connection with care agreements entered into prior to January 1, 1958. The interest assumption for such computation shall be determined by the state department in consultation with the Department of Insurance.

Failure to maintain reserves as provided in this section shall be deemed a breach of all agreements to furnish care.

The reserves shall consist of the following:

(a) Deposits in commercial and savings accounts with banks which are members of the Federal Deposit Insurance Corporation and approved by the state department.

(b) Investments in certificates issued by building and loan associations which are members of the Federal Savings and Loan Insurance Corporation and approved by the state department.

(c) Notes receivable secured by first deeds of trust and first mortgages.

(d) Bonds and stocks selected from an approved list, as determined by the state department in consultation with the Department of Insurance and the Department of Corporations. In the event stocks, bonds, and securities that are not on the approved list are part of the reserves, and if they are to be retained as part of the reserves, it shall not be necessary that such unapproved stocks, bonds, and securities be disposed of immediately, but they shall be disposed of in accord with regulations of the state department, which disposal shall be accomplished in a gradual manner so as to avoid loss to certificate holders. Securities which, although not on the approved list, should be retained in the reserve for reasons acceptable to the state department may be retained with the specific approval of the state department.

(e) Real estate used to provide care and housing for holders of life care contracts, continuing care agreements, or equities therein, owned by the organization or person, shall be based on 70 percent of the net equity thereof, which shall be the appraised value less any depreciation and encumbrances. The appraisal shall be made by an appraiser approved by the state department.

(f) Furniture and equipment situated in property used to provide care and housing for holders of life contracts, to the extent of 70 percent of the net equity thereof.

(g) Real estate or equities therein owned by the organization or person as an investment, the rents from which are used to discharge obligations to the holder of life care contracts or to reinvest as a part of the reserves.

(h) Investment certificates or shares in open end investment trusts (1) whose management must have been managing a mutual fund registered under the Investment Company Act of 1940, or the management must have been registered as an investment adviser under the Investment Advisers' Act of 1940, and in either case must currently have at least one hundred million dollars ($100,000,000) under its supervision; (2) which is qualified for sale in California; (3) has at least 40 percent of its directors or trustees not affiliated with

the fund's management company or principal underwriter or any of their affiliates; (4) is registered under the Investment Company Act of 1940; and (5) is a fund listed as qualifying under rules maintained by the Commissioner of Corporations in cooperation with the Department of Insurance.

(i) At least 25 percent of the reserve necessary to maintain all continuing care agreements, or life care contracts, must consist of listed bonds, stocks, commercial and savings accounts and building and loan certificates, except that a 5-percent requirement will apply to those homes and organizations which have at least one-half of their contracts under the monthly fee basis. Any person or organization holding a certificate of authority to enter into life care agreements upon the effective date of this act, that is unable to meet the reserve requirements of this subdivision, may petition the state department for a modification of the percentage in the reserve requirement.

Any person or organization which has entered into care agreements prior to October 1, 1957, but which was not required prior to September 11, 1957, to obtain a certificate of authority under this chapter, is not required to maintain reserves covering obligations assumed under any agreement entered into prior to October 1, 1957.

1776. Notwithstanding any other provisions of this chapter, the amount of reserve required by Section 1775 for any life care contract or continuing care agreement for which the advance fee is less than the maximum annualized amount of aid payable to a recipient of aid under the aid to the aged program shall be based on the amount of the advanced deposit which shall be amortized on a five-year basis.

1777. Life care agreements executed by an organization or person shall be deemed a preferred claim against all assets owned by the organization or person in the event of liquidation.

For purposes of computing the reserve, the liens required under Section 1772 shall not be deducted from the value of real or personal property.

1778. The state department may require the filing with the state department of a copy of any agreement entered into between the certificate holder and transferor, by every person or organization holding a certificate of authority to receive transfers under this chapter. All agreements entered into between the certificate holder and the transferor shall be in writing and shall contain all information required under Section 1779.

The state department shall require that any forms used by the certificate holder in concluding an agreement with any transferor be filed with and approved by the state department prior to their use by the certificate holder. The state department may contract with the Department of Insurance, on such terms as may be mutually agreeable, for any assistance which the state department may require in evaluating any submitted forms.

1779. The agreement must:

(a) Show the value of all property transferred, including, but not

limited to, donations, subscriptions, fees, and any other amounts paid or payable by or on behalf of the aged person.

(b) Show all the services which are to be provided by the person or organization to the transferor, including, in detail, all items which the transferor will receive, such as board, room, medical care, clothing, burial, incidentals, and whether such items will be provided for a designated time period or for life.

(c) Be accompanied by a financial statement showing all facts pertinent to the financial condition of the certificate holder.

(d) Include a statement informing the transferor that the agreement may be terminated by either party upon 90 days notice under the terms of the contract, consistent with state law.

(e) Be furnished, together with the financial statement, to the transferor.

1780. If the agreement permits dismissal or discharge of the aged person from the home prior to the expiration of the agreement, with or without cause, an amount equal to the difference between the amount paid in and the amount used for the care of the aged person during the time he remains in the institution, based upon the per capita cost to the institution, shall be refunded to the transferor; however, in cases where a consideration greater than the minimum charge has been paid for accommodations above standard, a sum equal to the difference between the amount paid in and the ratio of the amount paid to the minimum consideration for standard accommodations times the current per capita cost to the institution applied to the period the aged person remained in the institution shall be refunded to the transferor. If the per capita cost to the institution during the period cannot be established otherwise, the cost during the period shall be deemed to be the cost at the time of the dismissal or discharge.

1781. The state department shall make such rules and regulations as it deems best for the government of any institution or organization specified in Section 1770 in order that the rights of aged persons may be protected. The state department may, by any duly authorized representative, inspect and examine any such institution, home, or place, books and records, or the performance of any service required pursuant to the agreement.

1782. In lieu of making a detailed financial investigation, the state department may accept an annual audit of the records of the organization or person, made by a certified public accountant or public accountant, which shall include a certification, if such is the case, that the organization or person is maintaining reserves in accordance with the requirements of Section 1775.

Each organization or person specified in Section 1770 shall have an annual audit made of its financial affairs by a certified public accountant or a public accountant, which audit shall include full details on per capita costs of operation for each home operated and on the matter of reserves. A copy of the audit shall be filed with the state department and be transmitted to each transferor requesting

such audit. Funds and property received as advance payments for maintenance of the transferors shall be reported separately from membership fees, donations, or other funds available for capital expansion.

1783. A formal application shall be made by a person or organization to the state department for a certificate of authority. When issued, the certificate of authority shall remain in force until suspended or revoked by the state department in accordance with Section 1784.

1784. Certificates of authority may be suspended or revoked for cause by the state department.

Failure of the organization or person to meet the licensing requirements of Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of this division or the reserve requirements of Section 1775 shall constitute cause for suspension or revocation of the certificate of authority.

The person or organization whose certificate of authority is suspended or revoked shall have right of appeal to the state department. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all of the powers granted therein.

1785. For the failure of any organization or person to establish and maintain reserves as provided in this chapter, the state department shall, after due notice, revoke its certificate of authority. The state department may request the Department of Insurance to aid in the determination as to whether or not sufficient reserves are established and maintained.

1786. No certificate of authority shall be transferred. Neither the terms of the agreement nor the place of performance specified in any agreement shall be changed without the written consent of the state department, except in circumstances where residents are removed for medical treatment.

1787. A holder of a certificate of authority, who has life care residents in the home, and who wishes to sell or transfer ownership of the home to another party, shall first obtain approval from the state department.

1788. Any person, association, or corporation that maintains, enters into, or, as manager or officer or in any other administrative capacity, assists in maintaining or entering into any agreement providing for transfer of property, conditioned upon an agreement to furnish life care to the transferor or his nominee, without first having secured a certificate of authority therefor in writing, or refuses to permit or interferes with the inspection authorized in this chapter, is guilty of a misdemeanor.

1789. Any report, circular, public announcement, certificate, financial statement, or any other printed matter or advertising material, which is designed for or used to solicit or induce persons to enter into any agreement providing for the transfer of property,

conditioned upon an agreement to furnish life care or care for a period of more than one year, and which lists or refers to the name of any individual or organization as being interested in or connected with the person, association, or corporation to perform the contract, shall clearly state the extent of financial responsibility assumed by that individual or organization for the person, association, or corporation and the fulfillment of its contracts.

Any person, association, or corporation, that issues, delivers, or publishes, or, as manager or officer or in any other administrative capacity, assists in the issuance, delivery, or publication of any printed matter or advertising material which does not conform to the requirements of this section is guilty of a misdemeanor.

1790. The district attorney of every county shall, upon application by the state department or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter.

SEC. 268. Section 2283.5 of the Health and Safety Code is amended to read:

2283.5. When any nuisance specified in this chapter is found to exist on any property subject to the control of any state agency, the district shall notify the state agency of the existence of the nuisance. The provisions of Sections 2275, 2276, 2277, 2278, 2280, 2281, and 2282 shall govern the contents of the notice and the manner of serving it, the right of the state agency to a hearing before the board, the hearing before the board, and the power of the district to abate the nuisance if it is not abated by the state agency. If the state agency determines that the order to prevent recurrence of the breeding specified in the notice to abate the nuisance is excessive or inappropriate for the intended use of the land, or if the state agency determines that a nuisance, as specified in Section 2271, does not exist, such agency may appeal the decision of the board to the State Director of Health Services within 10 days subsequent to the hearing. The director shall decide the matters on appeal and convey his decision to the agency and district within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive. If the control of the nuisance is performed by the district, the cost for such control is a charge against, and shall be paid from, the maintenance fund or from other funds for the support of the state agency.

Any state agency and a district may enter into contractual agreements to provide control of nuisances as defined in this chapter. The authority which is granted by this paragraph is in addition to any other authority which a state agency and a district may have to enter into contractual agreements for such purpose.

As used in this section, the term "state agency" has the meaning prescribed by Section 11000 of the Government Code.

SEC. 269. Section 2950 of the Health and Safety Code is amended to read:

2950. Any physician and surgeon who knows, or has reasonable cause to believe, that a patient is suffering from pesticide poisoning or any disease or condition caused by a pesticide shall promptly report such fact to the local health officer. Each local health officer shall report to the county agricultural commissioner, the Director of Agriculture, and the State Director of Health Services, on a form prescribed by the State Director of Health Services, each case reported to him pursuant to this section within seven days after receipt of any such report.

SEC. 270. Section 3110 of the Health and Safety Code is amended to read:

3110. Each health officer knowing or having reason to believe that any case of the diseases made reportable by regulation of the State Department of Health Services, or any other contagious, infectious or communicable disease exists, or has recently existed, within the territory under his jurisdiction, shall take such measures as may be necessary to prevent the spread of the disease or occurrence of additional cases.

SEC. 271. Section 3226 of the Health and Safety Code is amended to read:

3226. The laboratory shall submit such laboratory reports of records to the State Department of Health Services as are required by regulation of the department. The health officer may destroy any copies of reports which have been retained by him pursuant to this section for a period of two years.

SEC. 272. Section 3296 of the Health and Safety Code is amended to read:

3296. Whenever any person confined in any state institution, as provided in Section 3351 of this code, subject to the jurisdiction of the Director of Corrections, dies, and any personal funds or personal property of such person remains in the hands of the Director of Corrections, such funds may be applied in an amount not exceeding three hundred dollars ($300) to the payment of expenses relating to burial; provided, however, that if no such funds are available, the State Department of Health Services shall reimburse the Director of Corrections for such expenses in an amount not exceeding three hundred dollars ($300).

SEC. 273. Section 3315 of the Health and Safety Code is amended to read:

3315. The State Department of Health Services may distribute for the purpose of tuberculosis control an annual subvention, paid quarterly, to any local health department that maintains a tuberculosis control program consistent with standards and procedures established by the department. This annual subvention shall be used primarily for the strengthening of tuberculosis prevention activities by local health departments. Further, the department may allocate additional funds to selected local health departments based on high disease incidence, or other standards established by the department. These additional funds shall be

expended primarily for the cost of diagnosis, treatment, and followup services required for an effective tuberculosis control program. Services rendered under this section may not be made dependent on status of residence.

SEC. 274. Section 3316 of the Health and Safety Code is amended to read:

3316. The State Department of Health Services may establish standards and procedures for the operation of local tuberculosis control programs. Such standards shall include, but not be limited to, the maintenance of records and reports relative to services rendered and to expenditures made which shall be reported semiannually to the State Department of Health Services in such manner as it may specify.

SEC. 275. Section 3380 of the Health and Safety Code is amended to read:

3380. No person may be unconditionally admitted as a pupil of a private elementary or secondary school or as a pupil of any school district unless prior to his first admission to school in California he has been immunized against poliomyelitis in the manner and with immunizing agents approved by the State Department of Health Services.

A person who presents evidence that he has received one such immunizing dose of poliomyelitis vaccine may be admitted on condition that within a period designated by regulation of the State Department of Health Services he presents evidence that he has been fully immunized against poliomyelitis.

A person who has not received any poliomyelitis vaccine may be admitted on condition that within two weeks of the date of his admission he shall present evidence that he has obtained his first such immunizing dose and shall thereafter within a period designated by regulation of the State Department of Health Services present evidence that he has been fully immunized against poliomyelitis.

This chapter does not apply to any person over the age of 16 years.

SEC. 276. Section 3382 of the Health and Safety Code is amended to read:

3382. The county health officer of each county shall organize and have in operation by January 1, 1962, an immunization program so that immunization is made available to all persons required by this chapter to be immunized. He shall also determine how the cost of such a program is to be recovered. To the extent that the cost to the county is in excess of that sum recovered from persons immunized, funds made available by the school districts may be used to pay the cost of the immunization of any person seeking admission to the public schools. The remainder of the cost shall be paid by the county in the same manner as other expenses of the county are paid.

Immunization performed by a private physician shall be acceptable for admission to school if the immunization is performed and records are made in accordance with rules established by the

State Department of Health Services.

SEC. 277. Section 3387 of the Health and Safety Code is amended to read:

3387. In enacting this chapter, it is the intent of the Legislature to provide a means for the eventual achievement of total immunization against poliomyelitis. This chapter is intended to provide exemptions from immunization under specified conditions. It is also designed to provide for the keeping of adequate records of immunization so that appropriate public agencies and the persons immunized will be able to ascertain that a person is fully immunized or only partially immunized. It is also the intent of the Legislature that the persons required to be immunized by this chapter be allowed to obtain immunization from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.

SEC. 278. Section 3400 of the Health and Safety Code is amended to read:

3400. No person may be unconditionally admitted as a pupil of a private elementary or secondary school or as a pupil of any school district unless prior to his first admission to school in California he has been immunized against measles (rubeola) in the manner and with immunizing agents approved by the State Department of Health Services.

A person who has not received an immunizing dose of measles (rubeola) vaccine may be admitted on condition that within two weeks of the date of his admission he shall present evidence that he has been fully immunized against measles (rubeola).

This chapter does not apply to any person over the age of 16 years.

SEC. 279. Section 3402 of the Health and Safety Code is amended to read:

3402. The county health officer of each county shall organize and operate an immunization program so that immunization is made available to all persons required by this chapter to be immunized. He shall also determine how the cost of such a program is to be recovered. To the extent that the cost to the county is in excess of that sum recovered from persons immunized, the cost shall be paid by the county in the same manner as other expenses of the county are paid.

Immunization performed by a private physician shall be acceptable for admission to school if the immunization is performed and records are made in accordance with rules established by the State Department of Health Services.

SEC. 280. Section 3407 of the Health and Safety Code is amended to read:

3407. In enacting this chapter, it is the intent of the Legislature to provide a means for the eventual achievement of total immunization against measles (rubeola). This chapter is intended to

provide exemptions from immunization under specified conditions. It is also designed to provide for the keeping of adequate records of immunization so that appropriate public agencies and the persons immunized will be able to ascertain that a person is immunized. It is also the intent of the Legislature that the persons required to be immunized by this chapter be allowed to obtain immunization from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.

SEC. 281. Section 3500 of the Health and Safety Code is amended to read:

3500. Pupils of public and private elementary and secondary schools, except pupils of community colleges, shall be provided the opportunity to receive within the school year the topical application of fluoride or other decay-inhibiting agent to the teeth in the manner approved by the State Department of Health Services. The program of topical application shall be under the general direction of a dentist licensed in the state and may include self-application.

SEC. 282. Section 3701 of the Health and Safety Code is amended to read:

3701. For the purposes of this chapter the term "common use" when applied to a drinking receptacle is defined as its use for drinking purposes by, or for, more than one person without its being thoroughly cleansed and sterilized between consecutive uses thereof by methods prescribed by or acceptable to the State Department of Health Services.

SEC. 283. Section 3751 of the Health and Safety Code is amended to read:

3751. Unsanitary packing material shall not be used until it has been cleaned and disinfected to the satisfaction of the Department of Food and Agriculture, State Department of Health Services, or the agents of either or both, or by a county health officer.

SEC. 284. Section 3801 of the Health and Safety Code is amended to read:

3801. For the purpose of this chapter the term "common use" when applied to a towel means its use by, or for, more than one person without its being laundered between consecutive uses of such towel by methods prescribed by or acceptable to the State Department of Health Services.

SEC. 285. Section 3901 of the Health and Safety Code is amended to read:

3901. No person shall supply or furnish to his employees for wiping rags, or sell or offer for sale for wiping rags, any soiled wearing apparel, underclothing, bedding, or parts of soiled or used underclothing, wearing apparel, bedclothes, bedding, or soiled rags or cloths unless they have been sanitized by methods prescribed by or acceptable to the State Department of Health Services.

SEC. 286. Section 4008 of the Health and Safety Code is amended to read:

4008. (a) The provisions of this chapter shall be enforced by the State Department of Health Services, or any local public health department.

(b) Any health officer or inspector, upon demand and notice of his authority, may, during reasonable hours, enter and inspect the ice, equipment, premises, sources of supply, and places of storage used by any person for storing or selling ice intended for human consumption or the preservation of food.

SEC. 287. Section 4051 of the Health and Safety Code is amended to read:

4051. All water supply reservoirs of a public agency, whether heretofore or hereafter constructed, shall be open for recreational use by the people of this state, subject to the regulations of the State Department of Health Services.

SEC. 288. Section 4403 of the Health and Safety Code is amended to read:

4403. A vessel upon which any garbage has been loaded with the intent that it shall be dumped or deposited upon any of the waters of the ocean where permitted by this article, shall not leave any point within the state unless it shall carry for the entire trip an inspector appointed by the State Department of Health Services, or where the point of departure is in a city, then by the city. The inspector shall enforce the provisions of this article.

Every person in charge of a vessel which is required to have an inspector on board by this article, and which does not carry an inspector during the entire trip, is guilty of a misdemeanor.

SEC. 289. Section 4457 of the Health and Safety Code is amended to read:

4457. Every person who violates, or refuses or neglects to conform to, any sanitary rule, order, or regulation prescribed by the State Department of Health Services for the prevention of the pollution of springs, streams, rivers, lakes, wells, or other waters used or intended to be used for human or animal consumption, is guilty of a misdemeanor.

SEC. 290. Section 4463 of the Health and Safety Code is amended to read:

4463. Before the reservoir and its surrounding land are opened to public fishing the public agency owning or operating the reservoir shall determine that such public fishing will not affect the purity and safety for drinking and domestic purposes of the water collected in the reservoir, and shall obtain from the State Department of Health Services a valid water supply permit setting forth the terms and conditions upon which public fishing may be conducted in the reservoir and on its surrounding land.

SEC. 291. Section 4470.1 of the Health and Safety Code is amended to read:

4470.1. The board of supervisors of any county wherein is located

a body of water owned by a governmental agency, which is used to supply water for human consumption may by resolution request the governmental agency owning the body of water to open the body of water to public fishing and the surrounding land area for other recreational use. The governmental agency owning the body of water shall thereupon make and file with said board of supervisors an estimate of the cost of preparing a coordinated plan for public fishing in said body of water and other recreational uses in the surrounding land area. Said board of supervisors thereupon may deposit with the governmental agency owning said body of water the amount of such estimate not exceeding two thousand five hundred dollars ($2,500), and the governmental agency owning said body of water thereupon shall proceed promptly with and complete such coordinated plan. In event the cost of preparing such plan shall be less than the amount deposited by said board of supervisors, the excess shall be repaid by the governmental agency owning the body of water to the board of supervisors which made such deposit. Such plan may provide for development of the area by stages and may exclude from public access structures, facilities or works of the agency necessary in supplying water for human consumption and such portions of the body of water and surrounding land area as may be reasonably required for the protection, maintenance or operation of such structures, facilities or works. Such plan may exclude such portions of the surrounding area as are unsuitable for public recreational use. The coordinated plan may also include an estimate of the cost of the capital improvements necessary or convenient for such public fishing and recreational uses, an estimate of the annual cost of maintenance and operation of the plan, and a recommendation as to the manner in which the plan may be financed.

After completion of the coordinated plan the governmental agency shall promptly make application to the State Department of Health Services for an amendment to its water supply permit, which would allow the opening of the body of water to public fishing and the surrounding land area for other recreational use pursuant to the coordinated plan.

SEC. 292. Section 4470.4 of the Health and Safety Code is amended to read:

4470.4. The ballot for the election authorized by Section 4470.2 shall contain such instructions required by law to be printed thereon and in addition thereto the following:

Shall the (insert name of governmental agency) allow fishing in the (name of body of water) and other recreational uses in the surrounding area subject to the regulations of the State Department of Health Services?	YES	
	NO	

If the governmental agency concludes that a bond issue is required to pay for the capital improvements included in the coordinated plan as approved by the amended permit, there shall also be printed on the ballot, immediately following the ballot proposition aforesaid, the following proposition to be voted on by the constituents of the governmental agency:

Shall the (insert name of governmental agency) incur a bonded indebtedness in the principal amount of $_____ for providing the capital improvements for fishing in the (name of body of water) and other recreational uses in the surrounding land area, subject to the regulations of the State Department of Health Services?	YES	
	NO	

SEC. 293. Section 4471 of the Health and Safety Code is amended to read:

4471. The governmental agency owning the body of water may fix and collect fees, including charges for motor vehicle parking, for the construction of facilities, operation, and use of the area opened for public fishing and other recreational uses. Such governmental agency shall have the power to contract with others for the rendering of any or all of the services required in connection with the operation of the area including the right to rent or lease the whole or any part of the area to provide necessary or convenient facilities for the use of the public. Such governmental agency shall have the power to make and enforce rules and regulations which it may find necessary or convenient for proper control of the areas opened to public fishing and other recreational uses. The State Department of Health Services shall make recurring inspections of all recreational areas approved under this article to insure the continued purity of drinking water.

SEC. 294. Section 5474.29 of the Health and Safety Code is amended to read:

5474.29. The State Department of Health Services, after consultation with the State Departments of Food and Agriculture and Industrial Relations, may make and promulgate reasonable regulations in accordance with this chapter pursuant to Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code.

SEC. 295. Section 5474.30 of the Health and Safety Code is amended to read:

5474.30. The primary responsibility for enforcement of the provisions of this chapter shall be vested in the local health officers; county agricultural commissioners may participate in such

enforcement. The State Departments of Health Services, Industrial Relations, and Food and Agriculture may also enforce the provisions of this chapter.

Any agency enforcing the provisions of this chapter shall report any violation to all field offices of the Employment Development Department located in the county where the violation occurs. Such report shall identify the employer responsible for the violation, the nature of the violation, and the location of the food crop growing and harvesting operation where the violation occurs. The Employment Development Department shall not refer persons for employment to any employer or food crop growing and harvesting operation identified in such report until the agency reporting the violation certifies that the violation has been corrected.

SEC. 296. Section 10001 of the Health and Safety Code is amended to read:

10001. The State Department of Health Services is charged with the uniform and thorough enforcement of this division throughout the state, and may promulgate additional regulations for its enforcement.

SEC. 297. Section 10025 of the Health and Safety Code is amended to read:

10025. The State Director of Health Services shall be the State Registrar of Vital Statistics.

SEC. 298. Section 10066 of the Health and Safety Code is amended to read:

10066. Special county records of birth certificates and death certificates transmitted and filed with the county recorder under the provisions of this chapter shall be open for inspection by the public in accordance with rules and regulations adopted by the State Department of Health Services for local registrars.

Nothing in this section shall authorize the use of a certificate marked pursuant to subdivision (a) of Section 10056.5 by any person compiling a business contact list.

SEC. 299. Section 10439 of the Health and Safety Code is amended to read:

10439. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon the order of the superior court of the county of residence of the adopted child or the superior court of the county granting the order of adoption.

No such order shall be granted by the superior court unless a verified petition setting forth facts showing the necessity of such an order has been presented to the court and good and compelling cause is shown for the granting of the order. The clerk of the superior court shall send a copy of the petition to the State Department of Social Services and the department shall send a copy of all records and information it has concerning the adopted person with the name and address of the natural parents removed to the court. The court must review these records before making an order and the order

should so state. If the petition is by or on behalf of an adopted child who has attained majority, these facts shall be given great weight, but the granting of any petition is solely within the sound discretion of the court.

The name and address of the natural parents shall be given to the petitioner only if he can demonstrate that such name and address, or either of them, are necessary to assist him in establishing a legal right.

SEC. 300. Chapter 12 (commencing with Section 11640) of Division 10 of the Health and Safety Code is repealed.

SEC. 301. Division 10.5 (commencing with Section 11750) is added to the Health and Safety Code, to read:

DIVISION 10.5. STATE DEPARTMENT OF ALCOHOL AND DRUG ABUSE

PART 1. CREATION AND TRANSFER OF DUTIES

11750. There is in state government in the Health and Welfare Agency a State Department of Alcohol and Drug Abuse.

11751. The State Department of Alcohol and Drug Abuse is under the control of an executive officer known as the Director of Alcohol and Drug Abuse, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. He shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

11752. The Director of Alcohol and Drug Abuse shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

11752.1. There is in the State Department of Alcohol and Drug Abuse a Division of Alcohol and a Division of Drug Abuse.

11753. The State Department of Alcohol and Drug Abuse succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the Office of Alcoholism, which shall be administered by the Division of Alcohol. The State Department of Alcohol and Drug Abuse also succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the substance abuse function of the State Department of Health, which shall be administered by the Division of Drug Abuse.

11754. The State Department of Alcohol and Drug Abuse may use the unexpended balance of funds available for use in connection with the performance of the functions vested in the department pursuant to Section 11753.

11755. All officers and employees of the State Department of Health and the Office of Alcoholism heretofore vested with any duty, power, purpose, responsibility, or jurisdiction to which the State

Department of Alcohol and Drug Abuse has succeeded, who, on the operative date of this section, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Alcohol and Drug Abuse by Section 11753 shall be transferred to the State Department of Alcohol and Drug Abuse. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Alcohol and Drug Abuse pursuant to the State Civil Service Act except as to positions exempted from civil service.

11756. The State Department of Alcohol and Drug Abuse shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land or other property, real or personal, held for the benefit or use of any state agency, the functions of which are vested in the State Department of Alcohol and Drug Abuse by Section 11753.

11757. All officers or employees of the State Department of Alcohol and Drug Abuse employed after the operative date of this section shall be appointed by the Director of Alcohol and Drug Abuse.

11758. As used in this division "state department" or "department" means the State Department of Alcohol and Drug Abuse and "director" means the Director of the State Department of Alcohol and Drug Abuse.

PART 2. ALCOHOLISM

CHAPTER 1. GENERAL PROVISIONS

Article 1. Division of Alcoholism

11775. The Legislature hereby finds and declares that it is essential to the health and welfare of the people of this state that action be taken by state government to effectively and economically utilize federal and state funds for alcoholism research and prevention and for the treatment and rehabilitation of alcoholics and their families. To achieve this, it is necessary that:

(a) Existing fragmented, uncoordinated, and duplicative alcoholism programs be merged into a comprehensive and integrated system for the prevention of alcoholism and for the treatment and rehabilitation of alcoholics and their families.

(b) Responsibility and authority for encouragement of the planning, establishing, and conducting of county programs in alcoholism prevention, treatment, and rehabilitation be concentrated in one department. The department shall oversee the administration of such county programs, and shall administer statewide alcoholism programs authorized under this part. The functions and operations of the department shall be subject to periodic review by the Legislature.

11776. The Legislature declares that alcoholism is:

(a) The most serious drug problem in California; and

(b) The cause of a great toll of death, permanent disability and property damage on our highways; and

(c) Often the cause of job loss, absenteeism, reduced productivity and industrial accidents; and

(d) A drain on law enforcement, the courts and prison system; and

(e) An important cause of marital dissolution and other domestic problems adversely affecting countless Californians, including many children; and

(f) Harmful to health when consumed in excessive amounts with resultant effects on the liver, brain and muscles.

11777. As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

(b) "State department" means the State Department of Alcohol and Drug Abuse established pursuant to Section 11750.

(c) "Director" means the Director of Alcohol and Drug Abuse appointed pursuant to Section 11750.

(d) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his mental or physical health is substantially impaired or endangered or his social or economic function is substantially disrupted.

(e) "Agency" means the Health and Welfare Agency.

(f) "Secretary" means the Secretary of the Health and Welfare Agency.

(g) "County program budget" means the county alcoholism program budget adopted by the governing body pursuant to Article 3 (commencing with Section 11810) of this chapter.

(h) "State advisory board" means the state alcoholism advisory board established pursuant to Section 11782.

(i) "Advisory board" means the county alcoholism advisory board established pursuant to Section 11795.

(j) "Alcoholism administrator" means the county alcoholism administrator designated pursuant to Section 11793.

(k) "State alcoholism program" includes all statewide alcoholism programs administered by the department and all county alcoholism programs funded under this division.

11778. The state department shall:

(a) Oversee the administration of state-funded programs relating to alcoholism.

(b) Develop and implement a comprehensive, uniform plan for alcoholism prevention, treatment and rehabilitation programs throughout the state and advise the secretary regarding inclusion of the plan in the state's comprehensive health plan.

(c) In the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the state alcoholism

program which shall include expenditures proposed to be made under this part, and may include expenditures proposed to be made by any other state agency relating to alcoholism.

(d) Be the single state agency to review all state plans which may, in part, relate to alcoholism, to be submitted for funding under federal legislation and advise the secretary on provisions to be included relating to alcoholics and their families; provided that nothing in this section shall be construed to prevent local government or private agencies from receiving federal funds directly in those instances where such funds are directly payable to local government or such agencies.

(e) Encourage and assist county alcoholism administrators in the development of local programs for the prevention of alcoholism and treatment and rehabilitation of alcoholics and their families in cooperation with public and private agencies, and individuals, and provide technical assistance and consultation services for these purposes.

(f) Review and approve county alcoholism program budgets submitted for state and federal funds administered by the department, and perform liaison functions to assist counties in development and implementation of such program budgets.

(g) Cooperate with other state agencies in establishing and conducting prevention, treatment, and rehabilitation programs for alcoholics and their families.

(h) Organize, sponsor, and encourage training programs for persons engaged in the prevention of alcoholism and the treatment and rehabilitation of alcoholics and their families;

(i) Sponsor and encourage research into the primary biomedical and social causes of alcoholism and the effectiveness of various types of alcoholism prevention treatment, and rehabilitation programs, and serve as a clearinghouse for information relating to alcoholism;

(j) Utilize the support, assistance, and dedication of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment and rehabilitation;

(k) Require uniform methods for keeping statistical and management information by public and private agencies, and individuals providing prevention, treatment, and rehabilitation services to alcoholics and their families in order to determine the effectiveness of such services pursuant to Section 11783, provided that, where appropriate, such methods shall be coordinated with methods utilized by other state health-related agencies;

(*l*) Encourage general hospitals and other appropriate health facilities to admit alcoholics without discrimination and to provide them with adequate and appropriate treatment;

(m) Encourage all health and disability insurance programs to include alcoholism as a covered illness;

(n) Submit an annual report to the Legislature on the state alcoholism program. The report shall include, but not limited to,

progress on implementation of the program, its effectiveness, the amount and sources of funds expended under the program, and the extent to which the misuse of alcohol and the gravity of alcoholism in California have increased or lessened.

(o) Encourage counties to coordinate alcoholism services, where appropriate, within a comprehensive county health services system.

(p) Administer prevention programs including the use of educational courses, driving-while-intoxicated programs, informational materials, and mass media advertising.

It is the intent of the Legislature that commencing with the 1976–77 fiscal year, the state department shall ensure that alcoholism programs under its jurisdiction include major efforts in prevention and in helping young persons who abuse alcohol.

11779. The state department shall have the power to act as follows:

(a) To adopt rules and regulations in accordance with the provisions of the Administrative Procedure Act necessary for proper execution of the powers and duties granted to and imposed upon the state department by this part, including, but not limited to, rules and regulations to establish standards for alcoholism prevention, treatment and rehabilitation services, the public and private facilities which provide such services, and the qualifications of the personnel of such facilities; provided, that such rules and regulations shall be adopted only after prior consultation with the state advisory board and county alcoholism administrators; provided further, that if two-thirds of the members of the state advisory board or two-thirds of the designated county alcoholism administrators at a public meeting reject such rules or regulations, the state department shall refer the matter for a decision to a committee composed of the chairman of the state advisory board, a designee of the alcoholism administrators, the director, the secretary, and one designee of the secretary. Such decision shall be made by a majority vote of such committee at a public meeting.

(b) To employ such administrative, technical, and other personnel as may be necessary for the performance of its powers and duties.

(c) To make contracts or grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, and individuals to pay them in advance or reimburse them for services provided to alcoholics and their families. The state department may require other state agencies to contract with it for services to carry out provisions of this part;

(d) To solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(e) To authorize reimbursement for that portion of health insurance premiums attributable to alcoholism treatment and rehabilitation made pursuant to approved programs undertaken by any public agency, business entity, labor organization, or other organization; and

(f) To do or perform any other acts which may be necessary, desirable or proper to carry out the purposes of this part.

11780. There is hereby established an Interdepartmental Coordinating Committee composed of the directors, or their designated representatives, of the Departments of Health Services, Rehabilitation, Corrections, Youth Authority, Employment Development, Education, Motor Vehicles, Office of Traffic Safety, representatives of the Legislative Analyst and Department of Finance, such other appropriate agencies as the Governor shall designate, and the state department. The committee shall meet at least twice annually at the call of the director, who shall be its chairman. The committee shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism, and shall act as a permanent liaison among the departments and agencies engaged in activities affecting alcoholics and their families. The committee shall assist the director in formulating a comprehensive state plan for prevention of alcoholism and for treatment and rehabilitation of alcoholics and their families.

11781. In exercising its coordinating functions, the committee shall assure that:

(a) The appropriate state agencies provide all necessary medical, social, treatment, rehabilitation, and educational services to alcoholics and their families without unnecessary duplication of services;

(b) All state agencies adopt approaches to the prevention of alcoholism and the treatment and rehabilitation of alcoholics and their families consistent with the policy of this part.

11782. (a) There is a State Alcoholism Advisory Board which shall consist of 15 members, five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly. The board shall assist and advise the director in carrying out the provisions of this part.

The members shall be appointed for terms that commence on January 1, 1976. Of the members first appointed by the Governor, the Senate Rules Committee, and the Speaker, two out of each five appointments shall hold office for three years, two out of each five shall hold office for two years, and one out of each five shall hold office for one year. Of the five members each appointed by the Governor, the Senate Rules Committee, and the Speaker, at least one out of five appointees shall be a person who has received treatment or rehabilitation services for his alcoholism problem. After these initial terms, each member shall be appointed for a term of three years. The members shall annually select the chairman of the board. Members shall have professional, research, or personal interest in the

field of alcoholism. The membership shall also include representatives from various economic, social, and occupational groups, and shall allow for geographic distribution throughout the state. The board shall meet at least once every three months and report on its activities and make recommendations to the director and the secretary at least once a year. The director shall respond in writing to the board regarding each recommendation. All meetings of the board shall be open to the public.

(b) The board shall advise the director on policies, goals, and operations of the office and on any other related matters the director refers to it or which are raised by the board and shall encourage public understanding of the problems of alcoholism and support throughout the state for development and implementation of effective alcoholism programs.

(c) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

11783. (a) A primary responsibility of the state department shall be to conduct evaluation studies to enable the state department to determine the relative cost-effectiveness of programs and services included in the county program budgets and statewide alcoholism programs. The state department shall conduct these evaluations in such a manner as to enable the state department to compare the relative cost-effectiveness of the same or similar programs or services provided in different counties. In conducting such studies, the state department may contract for research and evaluation services with state and local governmental agencies and any private agencies.

(b) Such evaluation studies shall be designed to provide the state department, the Legislature, the counties, and the public, with at least the following information and evaluation:

(1) A detailed description of the persons or community served;

(2) A detailed description and analysis of the kinds of programs or services provided and their cost;

(3) A detailed description and analysis of the results of the programs or services, at six-month intervals, for at least 18 months after a person has entered a program and has been provided with services for his alcoholism problem:

(4) An evaluation of whether such programs or services should continue to be funded.

Article 2. County Operations and Administration

11790. (a) The governing body of each county may establish a community alcoholism prevention, treatment and rehabilitation program for the county and apply for state funds under this part.

The provisions of this part shall be applicable only to counties electing to apply for state funds or federal funds administered by the state department under this part.

It is the intent of the Legislature to grant responsibility to the

county to administer and manage all county alcoholism programs funded under this part, and that the county be accountable to the state for their effective implementation. It is also the intent of the Legislature to encourage the county to establish its own priorities for alcoholism programs under the provisions of this part.

(b) Two or more counties may jointly establish programs pursuant to Article 1 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code.

11791. All state funds appropriated for purposes of the county program shall be provided under the county program budget adopted pursuant to Article 3 (commencing with Section 19940) of this chapter.

11792. Funds allocated to the county pursuant to this part shall be used exclusively for the development, support and expansion of alcoholism programs and such funds shall be separately identified and accounted for.

11793. (a) The governing body shall designate a health-related county agency or department which shall administer the county alcoholism program. The head of the designated health-related agency or department shall appoint a full-time alcoholism program administrator who shall report and be responsible to the head of the agency or department through administrative channels designated by the governing body. It is the intent of the Legislature that the county alcoholism program be administered and treated in a manner similar to other major health programs in the county.

(b) The alcoholism administrator shall, in accordance with standards established by the director, be a qualified professional who has training and experience in handling social or medical problems of alcoholics, or the organization and administration of alcoholism prevention, treatment, and rehabilitation programs.

(c) The requirement in subdivision (a) that the alcoholism administrator be full-time shall apply only to counties whose population exceeds 200,000; provided, that the director may waive the requirements of this section upon request of the governing body if he finds that such requirements would cause undue administrative hardship on the county.

In counties whose population does not exceed 200,000, the governing body shall designate an alcoholism administrator who may be a person who administrates other health-related programs in addition to the alcoholism program.

11794. The alcoholism administrator, acting through administrative channels designated pursuant to Section 11793, shall:

(a) Prepare the county program budget as specified in Article 3 (commencing with Section 11810) of this chapter.

(b) Exercise general supervision over alcoholism services provided under the county program budget.

(c) Recommend to the governing body the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes

of this part.

(d) Provide the advisory board with information regarding alcoholism programs in the county and consult with it regarding the development and implementation of the county program budget.

(e) Submit an annual report to the governing board relating to all activities of the county program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(f) Administer all alcoholism program funds allocated to the county under this part.

(g) Be responsible for the ongoing coordination of all public and private alcoholism programs and services in the county with the alcoholism program established pursuant to this article.

(h) Carry on such studies as may be appropriate for the discharge of his duties.

11795. (a) Each county shall have an alcoholism advisory board composed of 15 members appointed by the governing body and shall include at least three persons who have received treatment or rehabilitation services for their alcoholism problems. Members shall have a professional, research, or personal interest in the field of alcoholism. The membership shall include representatives from various economic, social and occupational groups.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law: provided, that the advisory board shall coordinate its efforts, where appropriate, with other boards and advisory agencies concerned with alcoholism.

This subdivision shall apply only to counties whose population exceeds 200,000.

(b) In counties whose population does not exceed 200,000, the governing body shall appoint an advisory board which shall be composed of not less than seven nor more than 15 members which is independent, under the jurisdiction of another health-related advisory board or agency established pursuant to any provision of state law, or has the same membership as such other advisory board or agency. It is the intent of the Legislature that such boards shall include representatives from various economic, social, and occupational groups, and persons who have received treatment or rehabilitation services for their alcoholism problems.

11796. Five members of the advisory board shall be appointed to serve until July 1, 1977; five members shall be appointed to serve until July 1, 1978; and five members shall be appointed to serve until July 1, 1979. After these initial terms, each member shall be appointed for a term of three years. The members shall select the chairman of the advisory board.

11797. No member of the advisory board shall be a full-time or part-time county employee of any county facility which provides alcoholism services, or an employee of a facility which provides alcoholism services under contract with the county, or a recipient of any state funds allocated to the county under this part. In the event

that prior to the expiration of his term, a member ceases to retain the status which qualified him for appointment to the advisory board, his membership on the advisory board shall terminate and there shall be a vacancy on the advisory board.

11798. If two or more counties whose combined population exceeds 200,000 jointly established an alcoholism program, the advisory board for its alcoholism program shall consist of at least 15 members. If the combined population of such counties does not exceed 200,000, subdivision (b) of Section 11795 shall apply to such counties.

11799. The advisory board shall meet at least bimonthly and may meet at such other times as may be deemed necessary by the chairman or alcoholism administrator. The members of the advisory board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties under this chapter; provided, that the members may receive compensation out of county funds other than the required county match. All meetings of the advisory board shall be open to the public.

11800. Advisory boards shall be subject to the provisions of Chapter 9 (commencing with Section 54950), Part 1, Division 2, Title 5 of the Government Code, relating to meetings of local agencies.

11801. The advisory board shall:

(a) Review and evaluate the county program budget, and any amendments thereto, and the community's alcoholism prevention, treatment, and rehabilitation needs, services, facilities, and special problems, and may make onsite visits to such facilities and interview persons who have received aid from such facilities.

(b) Advise the county alcoholism administrator on policies, goals and operations of the county alcoholism program and on any other related matters the alcoholism administrator refers to it or which are raised by the advisory board.

(c) Encourage public understanding of the problems of alcoholism and support throughout the county for development and implementation of effective alcoholism programs.

11802. In the event the alcoholism administrator and advisory board disagree regarding the development of or implementation of any element of the county program budget or any related matter, the advisory board may designate a representative to report or make a presentation before the governing body relating to such disagreement.

The advisory board shall submit minutes of its meetings, comments regarding the county program budget, and any related matters to the governing body.

11803. Subject to the approval of the director, any county may by contract furnish alcoholism services to any other county.

11804. Unless otherwise expressly provided for or required by the context, the provisions of this part relating to county alcoholism programs, and the appointment of alcoholism advisory boards and administrators shall apply to alcoholism programs operated jointly by

two or more counties.

11805. Nothing in this part shall prevent any city or combination of cities from financing and operating an alcoholism program by entering into arrangements with the county to provide and be reimbursed for services provided under the county program budget.

11806. It is the intent of the Legislature that the county maintain a unified planning process for all health programs, provided, that such unified planning shall not delay or interfere with any of the procedures or applications for funding under this part.

11807. The state department may require that each county and any public or private provider of alcoholism services or programs which receives any state funds under this part provide such information as may be requested by the department relating to any application for or receipt of federal or other nonstate funds for alcoholism services or programs.

Article 3. The County Alcoholism Program Budget

11810. On or before June 1 of each year, the governing body shall adopt a proposed or final county alcoholism program budget and shall submit the budget to the director in the form and according to the procedures specified by the director. The governing body shall submit its final alcoholism program budget no later than October 1 of each year and shall set forth any differences between its proposed and final budget. In the event the governing body does not adopt and submit its proposed or final program budget on or before June 1, the state may reallocate all or part of that county's allocation to other counties which have adopted and submitted their program budgets. The department shall, by regulation, establish deadlines for preparation of the program budget, review by the advisory board, and submission to the governing body. The county alcoholism program budget shall be the budget for the next fiscal year for the alcoholism program in the county. The purpose of the county program budget shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this division in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

11811. The county program budget shall provide for the development through the utilization of state, local, public and private resources, of adequate services and facilities for the prevention of alcoholism and for the treatment and rehabilitation of alcoholics and their families.

11812. The county program budget shall include all of the following:

(a) A description of services to be provided to alcoholics, their families, and the community.

(b) A budget of proposed expenditures.

The state department may require counties to provide information relating to projected needs and priorities for any subsequent fiscal

year or years.

11813. Such services shall be part of a comprehensive county alcoholism program and shall include, but not be limited to, the following:

(a) Prevention programs including educational courses, driving-while-intoxicated programs, and informational materials.

(b) Early diagnosis and detection programs, including occupational programs, screening and evaluation facilities, health examinations, and presentence investigation services.

(c) Emergency and detoxification programs, including inpatient and ambulatory detoxification services.

(d) Treatment and rehabilitation programs, including recovery home programs, counseling, and nonhospital treatment and rehabilitation programs.

(e) Information and referral centers.

(f) Planning, program development and administration; provided, that the director shall establish a limit on the amount of funds allocated to a county which may be expended for such purposes.

(g) Training programs.

(h) Services to alcoholics provided by state hospitals; provided, that no person afflicted with alcoholism may be admitted to a state hospital prior to screening and referral by an agency designated under the county program budget to provide such service.

(i) Actual and necessary expenses incurred by the alcoholism administrator relating to attendance at not more than four meetings each year of the alcoholism administrators designated pursuant to Section 11793.

(j) Vocational rehabilitation services.

Each county which is allocated funds shall contract directly with the Department of Rehabilitation for vocational rehabilitation services. Commencing with the 1977–78 fiscal year, each county may contract with the department for such services in any amount.

It is the intent of the Legislature that the counties shall make maximum utilization of vocational rehabilitation services pursuant to a contract with the department in order to maximize the receipt of matching federal funds available for such purposes where reasonable and appropriate to do so.

It is the further intent of the Legislature that the office devise procedures for counties to utilize to provide timely notice to the department relating to requests for vocational rehabilitation services for the next fiscal year.

11814. The state department may waive the requirement that the county program include any services described in Section 11813 if the county demonstrates that no substantial need exists for such service or sufficient funds are not available to adequately provide such service.

11815. When the county program budget is submitted to the director, it shall be accompanied by a document which indicates that

the budget has been reviewed by the advisory board.

11816. In development of the county program budget, optimum use shall be made of available assistance from appropriate local public and private agencies, community professional personnel, and state agencies. The state department shall, upon request and with available staff, provide consultation services and technical assistance to the alcoholism administrator, the governing body, and the advisory board. Optimum use shall also be made of federal, state, county, and private funds which may be available for alcoholism program budget planning.

11817. Each county shall utilize available private alcoholism programs and services in the county prior to developing new county-operated programs and services when such available private programs and services are as favorable in quality and cost as are those operated by the county. All such available local public or private programs and services, where appropriate, shall be utilized prior to using services provided by state hospitals.

11818. In conducting evaluation, planning, and research activities to develop and implement the county program budget, counties may contract with appropriate public or private agencies.

11819. It is the intent of the Legislature that the services provided pursuant to the county program budget shall be guided by the following standards:

(a) Wherever possible, a patient shall be treated on a voluntary rather than an involuntary basis.

(b) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(c) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(d) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(e) Provision shall be made for a continuum of coordinated treatment or rehabilitation services, so that a person who leaves a facility or a form of treatment or rehabilitation will have available and utilize other appropriate treatment or rehabilitation.

11820. (a) Each program or service funded through the county program budget shall contain evaluation and followup procedures, as established by rules or regulations adopted by the state department, in order to ascertain the effectiveness of each program or service, provided that such procedures, where appropriate, shall be coordinated with procedures utilized by other state health-related agencies.

(b) All personal information and records obtained by the county or the state department pursuant to this section and Section 11783 shall be confidential and may be disclosed only in those instances designated in Section 5328 of the Welfare and Institutions Code.

(c) Any person may bring an action against an individual who has

willingly and knowingly released confidential information or records concerning him in violation of the provisions of this section, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

Article 4. Financial Provisions

11830. Alcoholism program expenditures made by counties pursuant to this part shall be paid by the state pursuant to the provisions of this part.

11831. There shall be a single state appropriation from the Budget Act to the state department to fund programs for the prevention of alcoholism and treatment and rehabilitation for alcoholics and their families as provided for in this part.

11832. Payments or advances of funds to counties or other state agencies, which are properly chargeable to appropriations to the state department may be made by Controller's warrant drawn against state funds appropriated to the state department or federal moneys administered by the state department.

The state department shall have the authority to audit or contract for auditing of any expenditure made pursuant to the state alcoholism program under this part. The state department may deny payments or advances of funds to counties if it finds by audit or otherwise that the county program budget, or any part thereof, is not in compliance with the provisions of this part.

11833. Reports of expenditures shall be presented by each county to the state department and by all providers of services to the county at the time and in the form prescribed by the director, provided that the procedures and form for such reports, where appropriate, shall be coordinated with the procedures and forms utilized by other state health-related agencies. Each county shall be responsible for reviewing its contracts with providers of services and the state department may audit such contracts. Such reports shall be reviewed by the state department and interim adjustments to claims shall be made expeditiously with each county.

11834. Subsequent to review and approval of the county program budget, the director shall determine the amount of state and federal funds available for each county to implement the approved program budget. In making allocations to counties, the state department shall take into account such factors as the relative population of the

county, its financial need, its need for more effective alcoholism prevention, treatment, and rehabilitation programs, the relative ethnic minority population of the county, the number of arrests for public intoxication and driving while intoxicated, and the number of off-sale licensed outlets which sell alcoholic beverages within the county. Not later than 30 days after introduction of the Budget Bill, the state department shall notify each county regarding its preliminary allocation under this division pending enactment of the Budget Act.

11835. On or before October 1 of each year, each county shall submit to the state department a revised county program budget for such fiscal year which includes such revisions as are necessary or desirable to make the budget compatible with the Budget Act for that fiscal year. By November 1 of each year, the state department shall review and approve each revised county program budget. Such approval shall be subject to the amount appropriated to the state department for the purposes of such budget pursuant to the Budget Act for that fiscal year.

11836. The cost of all services specified in the approved county program budget shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as provided for in the county program budget. Where the services specified in the approved program budget are provided pursuant to other general health or social programs, only that portion of the service dealing with the prevention of alcoholism, and the treatment and rehabilitation of alcoholics and their families may be financed under this division.

For the purposes of this section, "county program budget" shall mean the total of state funds to be advanced to the county and the required county match.

11837. (a) Upon approval by both parties, the approved county program budget shall be deemed to be a contractual arrangement between the state and county.

(b) During the course of each fiscal year, a county may reallocate funds initially allocated pursuant to the approved county program budget between state-funded and other approved programs with the approval of the director.

The director may reallocate among county program budgets any savings which occur during the fiscal year in services or any allocations not in compliance with the provisions of this division provided for under the program budgets. Reallocations may be made to counties desiring to provide services supplementary to services specified in approved program budgets.

11838. Nothing in this part shall prevent a county from appropriating additional funds for alcoholism services or programs.

11839. In determining the amounts which may be paid for services, fees paid by persons receiving services or fees paid on behalf of such persons by the federal government, by the California

Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000), Part 3, Division 9 of the Welfare and Institutions Code and by other public or private sources, shall be used for providing additional alcoholism services.

11840. Expenditures subject to payment shall include expenditures for the services specified in Section 11813, salaries of personnel, approved facilities and services provided through contract, operation, maintenance and service costs, depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part, and such other expenditures as may be approved by the director. It shall not include expenditures for initial capital improvements, the purchase or construction of buildings, except for such equipment items and remodeling expenses as may be provided for in regulations, compensation to members of the state or county alcoholism advisory boards, except for actual and necessary expenses incurred in the performance of official duties, or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

11841. The provisions of subdivision (c) of Section 14000 of the Welfare and Institutions Code shall not be construed to prevent providers of alcoholism services pursuant to this part from also being providers of medical assistance alcoholism treatment services for the purposes of Chapter 7 (commencing with Section 14000), Part 3, Division 9 of the Welfare and Institutions Code.

11842. Fees shall be charged in accordance with the ability to pay for alcoholism treatment or rehabilitation services rendered, but shall not exceed the actual cost of such services; provided, that the director may waive the requirements of this section upon request of the governing body if he finds that the costs of collecting such fees will exceed the amount of fees collected. The state department shall issue regulations relating to the setting of such fees.

11843. To continue county expenditures for legal proceedings involving persons afflicted with alcoholism, the following costs incurred in carrying out this part shall be non-state-reimbursable charges:

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the state department.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other

court-appointed attorneys in proceedings for those unable to afford such assistance.

11844. From funds made available by the Legislature, the department is authorized to contract with the Regents of the University of California or a private university or universities located within California for purposes of establishing and maintaining research centers on a campus or campuses of the University of California or such private university or universities for the study of the primary biomedical or social causes of alcoholism. Funds appropriated by the Legislature pursuant to this section may be expended for salaries of staff and the acquisition of equipment and related research materials, and may not be expended for capital outlay purposes.

PART 3. DIVISION OF NARCOTICS AND DRUG ABUSE

CHAPTER 1. GENERAL

Article 1. Definitions and General Provisions

11860. The state department, with the approval of the Secretary of the Health and Welfare Agency, may contract with any public or private agency for the performance of any of the functions vested in the state department by this chapter. Any state department is authorized to enter into such a contract.

Article 2. Drug Abuse Prevention and Treatment Programs

11865. The state department shall be a central information resource on drug abuse prevention and treatment programs and on research projects with respect to narcotics and dangerous drugs.

The state department shall collect, and act as an information exchange for, information on research and service projects completed or in progress relating to drug abuse, provide, to any person, institution or public agency proposing any research or service project on such subject, information with respect to the areas in which research is needed, evaluate programs of research, treatment and education with respect to drug abuse. No state agency shall conduct any research or service project on drug abuse until it has provided the state department with a description of its proposed project and until the state department has responded with a written description of how the research or service project relates with other completed, concurrently operating, or pending research or service projects. If the state department fails to provide the agency with such written description within 60 days from the date of receipt of the proposed project, the state agency may proceed to conduct the research or service project as described in their proposal.

The state department annually shall submit to the Governor and the Legislature, not later than January 5, a report of the activities it

undertakes pursuant to this section, including specific recommendations with respect to evaluation of programs of research, treatment and education with respect to drug abuse.

11866. The state department shall assist local community organizations in initiating effective programs to prevent and treat narcotics addiction and drug abuse.

11867. The state department shall develop and maintain a centralized narcotic and drug abuse data collection system which shall gather and obtain information on the number and causes of narcotic- or drug-related treatment, the number of admissions to all hospitals on both an emergency room and inpatient basis for narcotic- and drug-related treatment, the number of admissions to state hospitals for narcotics or drug abuse treatment, the number of arrests for narcotics and dangerous drug violations, the number of California Youth Authority commitments for narcotics and drug abuse violations, the number of California Department of Corrections commitments for narcotics and drug abuse violations, the number or percentage of drug abusing persons as determined by survey information, the amounts of narcotics and dangerous drugs confiscated by law enforcement in the state, the statewide narcotics and drug abuse treatment program distribution and the fiscal impact of narcotics and drug abuse upon the state.

The state department shall, annually, issue a report which portrays the drugs abused, populations affected, user characteristics, crime-related costs, socioeconomic costs and other related information deemed necessary in providing a problem profile of narcotics and drug abuse in the State of California.

11868. The state department shall develop and implement a mass media drug education program involving newspapers, radio and television in order to provide community education, develop public awareness and motivate community action in drug prevention, treatment, and rehabilitation.

11869. The state department shall develop an objective program evaluation device or methodology and evaluate state-supported narcotics and drug abuse prevention and treatment programs.

11870. The state department shall, in consultation with the Department of Education, screen and evaluate drug abuse books, pamphlets, literature, movies, and other audiovisual aids and prepare and disseminate lists of such recommended materials to schools, public libraries, drug information centers, and other such public and private agencies.

11871. The state department shall consult with, and seek the advice of, the committee prior to adopting any rules or regulations pursuant to this chapter.

Article 3. Methadone Programs

11875. The Legislature finds that it is in the best interests of the health and welfare of the people of this state to coordinate

methadone programs and to establish minimum requirements for the operation of all methadone programs in this state.

11876. In addition to the duties authorized by other provisions, the state department shall have all of the following powers:

(a) Exclusive authority to approve the establishment of methadone programs in this state, except that the Research Advisory Panel shall have authority to approve methadone research programs. The state department shall establish the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of methadone, security against redistribution of the drug and any other regulations which, in its discretion, the department finds are necessary to protect the safety and well-being of the patient and the public and to carry out the provisions of this chapter. The arrest and conviction records and the records of pending charges against any person seeking admission to a methadone program shall be furnished to methadone program directors upon written request of the methadone program director provided such request is accompanied by a signed release from the person whose records are being requested.

(b) To monitor methadone programs in this state to insure that the programs are operating within promulgated regulations.

(c) To study and evaluate, on an ongoing basis, methadone programs in this state and annually report to the Legislature on the effectiveness and needs of the programs.

(d) To provide advice, consultation, and technical assistance to methadone programs.

(e) In its discretion, to approve local agencies or bodies to assist it in carrying out the provisions of this chapter.

(f) It is the intent of the Legislature in enacting this section in order to protect the general public, that self-administered dosage shall only be provided when the patient is clearly adhering to the requirements of his program, and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking. The director shall define "satisfactory adherence" and shall ensure that patients not satisfactorily adhering to their programs shall not be provided take-home dosage.

11877. In addition to the duties authorized by other provisions, the state department shall be responsible for approving methadone programs established by the county mental health program, pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.

No such programs shall be established without the prior approval of the state department. The state department may approve such programs on an inpatient or outpatient basis, or both.

11878. The state department shall not approve the establishment of a methadone program without a written application by the treatment facility which meets evaluative criteria required by the state department.

The state department shall not require disclosure of the identity of patients or former patients or of any records containing identifying information except as provided in Section 4353.5. Other information and records shall be subject to the confidentiality and disclosure provisions contained in Article 7 (commencing with Section 5325), Chapter 2, Part 1, Division 5 of the Welfare and Institutions Code.

11879. The identity of patients or former patients may be disclosed only as follows:

(a) The consent of the patient, or his guardian or conservator shall be obtained before his identity in information or records may be disclosed by any person employed by a treatment program to any person not employed by the treatment program.

(b) In communications between qualified professional persons employed by the treatment program in the provision of services.

(c) To qualified medical persons not employed by the treatment program when the patient is involved in a medical emergency.

(d) With patient approval, to the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for public welfare, aid, insurance, or medical assistance to which he may be entitled.

(e) If the recipient of services is a minor, ward, or conservatee, and his parent, guardian, or conservator designates, in writing, persons to whom his identity in records or information may be disclosed, except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(f) As ordered by a court, upon a showing of good cause.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families, provided that specific threats have been made against such persons.

11880. It is the intent of the Legislature in authorizing methadone programs to provide a means whereby the patient may be rehabilitated and will no longer be forced to resort to illegal activities in order to support a dependency on heroin. It is, therefore, the intent of the Legislature that each methadone program shall have a strong rehabilitative element, including, but not limited to, individual and group therapy, counseling, vocational guidance, and job and education counseling. The Legislature declares the ultimate goal of all methadone programs shall be to aid the patient in altering his life style and eventually to eliminate all dependency on drugs.

The state department shall promulgate such regulations as are necessary to insure that every program is making a sustained effort to end the drug dependency of the patients on its program.

11881. The state department shall establish criteria for acceptable performance from those laboratories performing urinalysis or other body fluid analysis and shall not permit utilization

of laboratories unable to meet an acceptable level of performance. The results of any performance evaluation of any laboratory shall immediately be made available to the local programs upon request. Nothing in this section shall prohibit body fluid analysis to be performed by the methadone program upon approval of the state department.

11882. The state department shall establish a statewide identification card to be issued to methadone patients. The state department shall also institute or provide for a system to prevent multiple program registration by methadone patients. The system shall utilize data which protects the personal identity of the patient. The state department may participate in such a system developed and operated at the federal level, if there is one, if in the discretion of the state department it satisfactorily prevents multiple program participation and is budgetarily feasible. The information obtained in the course of instituting the system shall be subject to the confidentiality and disclosure provisions contained in Article 7 (commencing with Section 5325), Chapter 2, Part 1, Division 5 of the Welfare and Institutions Code.

Article 4. Methadone Program Body Fluids Testing

11885. The state department shall adopt and publish such rules and regulations to be used in approving and governing the operation of laboratories engaging in the performance of tests referred to in Section 11886, including, but not limited to the qualifications of the employees of such laboratories who perform such tests, as it determines are reasonably necessary to insure the competence of such laboratories and employees to prepare, analyze, and report the results of such tests.

11886. The testing of urine or other body fluid analysis for the methadone programs operating in the state shall be performed only by a laboratory approved and licensed by the state department for the performance of such tests.

11887. Each laboratory in this state which performs the test referred to in Section 11886 shall be licensed by the director. Each such laboratory, other than a laboratory operated by the state, county, city, or city and county, other public agency, or a clinical laboratory licensed pursuant to subdivision (f) of Section 1300 of the Business and Professions Code, shall, upon application for licensing, pay a fee to the state department in an amount to be determined by the department, which will reimburse the state department for the costs incurred by the state department in the issuance and renewal of such licenses, but not to exceed one hundred dollars ($100). On or before July 1 of each year thereafter, each such laboratory shall pay to the state department a fee so determined by the state department, not to exceed one hundred dollars ($100), for the renewal of its license.

11888. The state department shall enforce the provisions of this

article and such rules and regulations as are adopted by the state department.

11889. The state department shall annually publish a list of approved and licensed laboratories engaging in the performance of tests referred to in Section 11886.

11890. Every laboratory which has been approved and for which a license has been issued shall be periodically inspected by a duly authorized representative of the state department. Reports of each such inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the department and shall be filed with the state department.

11891. Any license issued pursuant to Section 11887 may be suspended or revoked by the director for any of the reasons set forth in Section 11992. The director may refuse to issue a license to any applicant for any of the reasons set forth in Section 11992. Any proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and the director shall have the powers and duties granted therein.

11892. The director may deny a license if any of the following apply to the applicant, or any partner, officer, or director thereof:

(a) Such person fails to meet the qualifications established by the state department pursuant to this chapter for the issuance of the license applied for.

(b) Such person was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Such person has committed any act involving dishonesty, fraud, or deceit, whereby another was injured or whereby applicant has benefited.

11893. The director may suspend, revoke, or take other disciplinary action against a licensee as provided in this chapter, if the licensee or any partner, officer, or director thereof does any of the following:

(a) Violates any of the regulations promulgated by the state department pursuant to this article.

(b) Commits any act of dishonesty, fraud or deceit, whereby another is injured or whereby the licensee benefited.

(c) Misrepresents any material fact in obtaining a license.

11894. The director may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the director.

(b) Suspending the license.

(c) Revoking the license.

11895. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary

action, except that with respect to an accusation alleging a violation of subdivision (c) of Section 11993, the accusation shall be filed within two years after the discovery by the department of the alleged facts constituting the fraud or misrepresentation prohibited by such section.

11896. After suspension of the license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued within a period of one year after the effective date of revocation. After one year after the effective date of the revocation the state department may reinstate the license upon proof of compliance by the applicant with all provisions of the decision as to reinstatement.

CHAPTER 2. COMMUNITY DRUG ABUSE CONTROL

11960. The Legislature recognized that drug abuse should be viewed and treated as a health problem, as well as a law enforcement problem. The drug abuse problem has a significant public impact and must, in addition to law enforcement, be given community, educational, social, and health attention if prevention and amelioration is to be achieved. These approaches should be coordinated into a multiagency and multifaceted program for drug abuse control in the counties of the state.

11961. As used in this chapter:

(a) "Coordinator" means the county drug program coordinator designated pursuant to Section 11962.

(b) "Advisory committee" means the county advisory committee established pursuant to Section 5606.5 of the Welfare and Institutions Code.

11962. The local mental health director shall serve as county drug program coordinator unless the board of supervisors determines otherwise. In such instance, the board of supervisors may designate either the chief administrative officer of the county or the head of the county agency responsible for the overall health services for the county as county drug program coordinator.

11963. The county drug program coordinator shall have the following powers and duties:

(a) He shall be responsible for the preparation of the drug program portion of the county Short-Doyle plan.

(b) He shall exercise general supervision over the drug program services provided under the county Short-Doyle plan.

(c) He shall recommend to the board of supervisors, after consultation with the advisory committee, if there be one, the provision of services, establishment of facilities, contracting for services or facilities and other matters necessary or desirable in accomplishing the purposes of this chapter.

(d) He shall submit an annual report to the board of supervisors reporting all activities of the drug program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) He shall carry on such studies as may be appropriate for the discharge of his duties, including the prevention and treatment of drug abuse.

(f) He shall be responsible for the ongoing coordination of all public and private drug abuse programs and services in the county.

(g) He shall administer all drug program funds allocated to the county under this chapter. No drug program funds allocated to the counties under this chapter shall be expended without the prior approval of the coordinator.

(h) He shall be responsible to the board of supervisors, through administrative channels designated by the board of supervisors, for the drug program of the county.

CHAPTER 3. REGISTRATION OF NARCOTICS AND DRUG ABUSE PROGRAMS

11970. As used in this chapter, "coordinator" means the county drug program coordinator designated pursuant to Section 11962.

11971. As used in this chapter, "narcotic and drug abuse program" means any program which provides any service of care, treatment, rehabilitation, counseling, vocational training, self-improvement classes or courses, methadone maintenance treatment, methadone detoxification treatment, or other medication services for detoxification and treatment, and any other services which are provided either public or private, whether free of charge or for compensation, which are intended in any way to alleviate the problems of narcotic addiction or habituation or drug abuse addiction or habituation or any problems in whole or in part related to the problem of narcotics addiction or drug abuse, or any combination of such problems.

11971. A narcotic and drug abuse program includes, but is not limited to:

(a) Halfway houses, which are those places which provide a residential setting and which provide such services as detoxification, counseling, care, treatment, and rehabilitation in a live-in facility.

(b) Drop-in centers, which are any places which are established for the purpose of providing counseling, advice, or a social setting for one or more persons who are attempting to understand, alleviate or cope with their problems of narcotics addiction or drug abuse.

(c) Crisis lines, which are those services which provide a telephone answering service which provides, in whole or in part, a crisis intervention, counseling or referral or a source of general narcotics or drug abuse information.

(d) Free clinics, which are those places which are established for the purpose, either in whole or in part, of providing any medical or dental care or any social services or any treatment or referral to such services for those persons recognized as having a problem of narcotics addiction or drug abuse.

(e) Detoxification centers, which are those places established for

the purpose of detoxification from narcotics or dangerous drugs, regardless of whether or not narcotics, restricted dangerous drugs, or other medications are administered in said detoxification and regardless of whether detoxification takes place in a live-in facility or on an outpatient basis.

(f) Methadone programs, which are any programs, whether inpatient or outpatient, which offer methadone maintenance, detoxification or other services in conjunction with such methadone maintenance or detoxification, and those programs which provide supportive services to such methadone maintenance or detoxification programs.

(g) Nonspecific drug programs, which are those programs not specifically mentioned above but which provide or offer to provide, in whole or in part, for counseling, therapy, referral, advice, care, treatment or rehabilitation as a service to those persons suffering from narcotics addiction, drug habituation or other narcotics and drug abuse related problems which are either physiological or psychological in nature.

11972. The coordinator of each county shall establish and maintain a registry of all narcotics and drug abuse programs within the county in order to promote a coordination of effort in the county.

11973. Each narcotic and drug abuse program in a county shall register with the coordinator of the county not later than 90 days after the effective date of this section and shall register thereafter on or before July 1, 1973, and on or before July 1 of each year thereafter. Any narcotics and drug abuse program established after July 1, 1973, or after July 1 of any year thereafter shall register within 30 days after being established.

11974. Registration under this chapter shall include registration of all of the following information concerning the particular narcotic or drug abuse program registering:

(a) A description of the services, programs, or activities provided by the narcotic or drug abuse program and the types of patients served.

(b) The address of each facility at which the services, programs or activities are furnished.

The names and addresses of the persons or agencies reponsible for the direction and operation of the narcotic and drug abuse program.

11975. Registration under this part does not constitute the approval or endorsement of the narcotic or drug abuse program by any state or county officer, employee or agency.

11976. For the purpose of this chapter, registration shall not be required for those programs that provide drug abuse education in public or private schools as a matter of and in conjunction with a general education of students. This chapter does not require registration of law enforcement agencies which provide drug abuse education in the course of their normal performance of duties. Nothing in this chapter shall prohibit registration of such programs of education or law enforcement if such law enforcement and

education agencies so desire.

CHAPTER 4. NARCOTICS AND DRUG ABUSE PROGRAMS

11980. The Legislature hereby finds and declares that it is essential to the health and welfare of the people of this state that action be taken by state government to effectively and economically utilize federal and state funds for narcotic and drug abuse prevention, care, treatment and rehabilitation services. To achieve this, it is necessary that:

(a) Existing fragmented, uncoordinated, and duplicative narcotic and drug abuse programs be molded into a comprehensive and integrated statewide program for the prevention of narcotic and drug abuse and for the care, treatment, and rehabilitation of narcotic addicts and drug abusers.

(b) Responsibility and authority for planning programs and activities for prevention, care, treatment, and rehabilitation of narcotic addicts be concentrated in the State Department of Alcohol and Drug Abuse. It is hereby declared to be the intent of the Legislature to assign responsibility and grant authority for planning narcotic and drug abuse prevention, care, treatment, and rehabilitation programs to the State Department of Alcohol and Drug Abuse whose functions shall be subject to periodic review by the Legislature and appropriate federal agencies.

(c) The State Department of Alcohol and Drug Abuse succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction with regard to substance abuse formerly vested in the State Department of Health.

11981. The state department shall coordinate state and local narcotics and drug abuse prevention, care, treatment, and rehabilitation programs.

11982. The state department shall consult with state and local health planning bodies and encourage and promote effective use of facilities, resources, and funds in the development of integrated, comprehensive local programs for the prevention, care, treatment, and rehabilitation of narcotics and drug abuse.

11983. The state department shall develop and implement a comprehensive and uniform plan for the prevention, care, treatment, and rehabilitation of narcotics and drug abuse throughout the state.

11984. The state department shall consult with federal, state and local agencies involved in the provision and delivery of services of prevention, care, treatment, and rehabilitation of narcotics and drug abuse.

11985. The state department shall provide technical assistance, guidance, and information to local governments and state agencies with respect to the creation and implementation of programs and procedures for dealing effectively with narcotics and drug abuse prevention, care, treatment, and rehabilitation.

11986. The state department shall establish goals and priorities for all state agencies providing narcotic and drug abuse services. All state governmental units operating drug programs or administering or subventing state or federal funds for drug programs shall annually set their program priorities and allocate funds in coordination with the state department.

11987. The state department shall, in the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the statewide narcotics and drug abuse program, including not only expenditures proposed to be made under this division, but also expenditures proposed to be made under related programs or by any other state agency, incidental to the prevention, control, and treatment of narcotics and drug abuse. The state department may require state agencies to contract with it for services to carry out provisions of this division.

11988. The state department shall coordinate all narcotics and drug abuse services and related programs conducted by state agencies with the federal government, and shall ensure that there is no duplication of such programs among state agencies and that all agreements, contracts, plans, and programs proposed to be submitted by any such agency, other than the Regents of the University of California, to the federal government in relation to narcotics and drug abuse related problems shall first be submitted to the state department for review and approval.

11989. The state department may enter into such agreements and contracts with any person, agency, corporation, or other legal entity and such other actions as are necessary to carry out the purposes of this division. The state department may require state agencies to contract with it for services to carry out the provisions of this division.

11990. The state department may accept and expend grants, gifts, and legacies of money, and, with the consent of the Department of Finance, accept, manage, and expend grants, gifts, and legacies of other properties in furtherance of the purposes of this division.

11991. All officers and employees of the State Office of Narcotics and Drug Abuse including those who, on the operative date of this section, are serving in the state civil service other than as temporary employees shall be transferred to the State Department of Health. The status, positions, and rights of such officers and employees shall not be affected by the transfer and shall be retained by them as officers and employees of the state department pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500), Division 5, Title 2, Government Code).

11992. The state department shall have possession and control of all records, papers, equipment, supplies, moneys, appropriations, and other personal property of substance abuse division of the State Department of Health.

11993. Notwithstanding any other provision of law, the state

department may provide advance payment of federal funds, to the extent permitted by federal contract, to private nonprofit or county drug abuse treatment and prevention programs which are under subcontract with the state department or which are under Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.

SEC. 302. Section 18897.2 of the Health and Safety Code is amended to read:

18897.2. The State Director of Health Services shall adopt, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, and enforce such rules and regulations establishing minimum standards for organized camps and regulating the operation of organized camps as he determines are necessary to protect the health and safety of the campers. In adopting such rules and regulations the State Director of Health Services shall consider the Resident Camp Standards of the American Camping Association.

SEC. 303. Section 18897.6 of the Health and Safety Code is amended to read:

18897.6. Organized camps shall not be subject to regulation by any state agency other than the State Department of Health Services, California regional water quality control boards, the State Water Resources Control Board, and the State Fire Marshal; provided, that this section shall not affect the authority of the Department of Industrial Relations to regulate the wages or hours of employees of organized camps.

SEC. 304. Section 18897.7 of the Health and Safety Code is amended to read:

18897.7. No organized camp shall be operated in this state unless each site or location in which the camp operates satisfies the minimum standards for organized camps prescribed by the State Director of Health Services and the State Fire Marshal. Any violation of this section or of any rule or regulation adopted pursuant to Section 18897.2 or Section 18897.3 in the operation of organized camps is a misdemeanor.

SEC. 305. Section 24101 of the Health and Safety Code is amended to read:

24101. The State Department of Health Services has supervision of sanitation, healthfulness, and safety of public swimming pools.

SEC. 306. Section 24156 of the Health and Safety Code is amended to read:

24156. The State Department of Health Services has supervision of sanitation, healthfulness, and safety of the public beaches and public water-contact sport areas of the ocean waters and bays of the state and the department may make and enforce such rules and regulations pertaining thereto as it deems proper.

SEC. 307. Section 24159 of the Health and Safety Code is amended to read:

24159. Nothing contained in this article shall be construed to give

the State Department of Health Services the authority to fix the areas wherein water-contact sports may be engaged in or to affect the authority of the State Water Pollution Control Board or regional water pollution control boards to fix appropriate areas for various uses.

SEC. 308. Section 24201 of the Health and Safety Code is amended to read:

24201. The purpose of this chapter is to clarify and strengthen the provisions of state law applicable to the use of carcinogens in California. It is the intent of the Legislature to provide for effective implementation of the provisions of this chapter. It is further the intent of the Legislature, in enacting this chapter, to eliminate any duplication or overlap of duties performed by the State Department of Health Services and the Division of Industrial Safety in the Department of Industrial Relations with respect to the safety of employees involved in the use of carcinogens.

SEC. 309. Section 24209 of the Health and Safety Code is amended to read:

24209. "State department" means the State Department of Health Services.

SEC. 310. Section 24222 of the Health and Safety Code is amended to read:

24222. The division shall have primary responsibility for enforcement of standards relating to carcinogens. However, the State Department of Health Services shall assist the division in the enforcement of such standards, in the manner prescribed by this chapter and as shall be further defined by a written agreement between the state department and the Department of Industrial Relations, pursuant to Section 144 of the Labor Code.

SEC. 311. Section 25111 of the Health and Safety Code is amended to read:

25111. "Department" means the State Department of Health Services.

SEC. 312. Section 25112 of the Health and Safety Code is amended to read:

25112. "Director" means the State Director of Health Services.

SEC. 313. Section 25174 of the Health and Safety Code is amended to read:

25174. Each operator of any site at which hazardous wastes are disposed shall pay a fee to the director for each list or other document which such operator receives pursuant to Article 6 (commencing with Section 25160). The director shall establish a schedule of the fees to be paid to the director by such operator for each disposal of hazardous waste listed in such a list or document, which shall provide revenues which shall not exceed the amount necessary, but shall be sufficient, to cover all costs incurred in the administration of this chapter. Such fees shall be deposited each month in the Hazardous Waste Control Account in the General Fund. The funds deposited in such account are continuously appropriated for expenditure without

regard to fiscal years to the State Department of Health Services to carry out the provisions of this chapter.

SEC. 314. Section 25600 of the Health and Safety Code is amended to read:

25600. The Legislature finds and declares that radioactive contamination of the environment may subject the people of the State of California to unnecessary exposure to ionizing radiation unless it is properly controlled. It is therefore declared to be the policy of this state that the State Department of Health Services initiate and administer necessary programs of surveillance and control of those activities which could lead to the introduction of radioactive materials into the environment.

SEC. 315. Section 25600.5 of the Health and Safety Code is amended to read:

25600.5. As used in this chapter the following terms have the meanings described in this section.

(a) "Department" means the State Department of Health Services.

(b) "Environment" means all places outside the control of the person responsible for the radioactive materials.

(c) "Field tracer study" is any project, experiment, or study which includes provision for deliberate introduction of radioactive material into the environment for experimental or test purposes.

(d) "Person" includes any association of persons, copartnership or corporation.

(e) "Radiation," or "ionizing radiation," means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(f) "Radioactive material" means any material or combination of materials that spontaneously emits ionizing radiation.

(g) "Radioactive waste" means any radioactive material that is discarded as nonusable.

(h) "Significant" or "significantly," as applied to radioactive contamination, means such concentrations or amounts of radioactive material as are likely to expose persons to ionizing radiation equal to or greater than the guide levels published by the Federal Radiation Council.

(i) "Radiological monitoring" means the measurement of the amounts and kinds of radioactive materials in the environment.

SEC. 316. Section 25661 of the Health and Safety Code is amended to read:

25661. As used in this chapter:

(a) "Department" means the State Department of Health Services.

(b) "Board" means the State Department of Health Services.

(c) "Committee" means the Radiologic Technology Certification Committee.

(d) "Radiologic technology" means the application of X-rays on

human beings for diagnostic or therapeutic purposes.

(e) "Radiologic technologist" means any person other than a licentiate of the healing arts making application of X-rays to human beings for diagnostic or therapeutic purposes pursuant to subdivision (b) of Section 25668.

(f) "Limited permit" means a permit issued pursuant to subdivision (c) of Section 25668 to persons to conduct radiologic technology limited to the performance of certain procedures or the application of X-ray to specific areas of the human body.

(g) "Approved school for radiologic technologists" means a school which the department has determined provides a course of instruction in radiologic technology which is adequate to meet the purposes of this chapter.

(h) "Supervision" means responsibility for, and control of, quality, radiation safety, and technical aspects of all X-ray examinations and procedures.

(i) "Licentiate of the healing arts" means a person licensed under the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code who possesses a certificate issued under the provisions of Section 2135 of such code, and a person licensed under the provisions of the initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith," approved by electors November 7, 1922, as amended, or under the "Osteopathic Act."

(j) "Certified supervisor or operator" means a licentiate of the healing arts who has been certified under the provisions of subdivision (e) of Section 25668, 25699.1, or Section 25699.2, to supervise the operation of X-ray machines or to operate X-ray machines, or both.

(k) "Student of radiologic technology" means a person who has started and is in good standing in a course of instruction which, if completed, would permit the person to be certified a radiologic technologist or granted a limited permit upon satisfactory completion of any examination required by the department. "Student of radiologic technology" does not include any person who is a student in a school of medicine, chiropractic, podiatry, dentistry, dental radiography, or dental hygiene.

SEC. 317. Section 25663 of the Health and Safety Code is amended to read:

25663. The State Department of Health Services shall appoint a certification committee to assist, advise, and make recommendations for the establishment of rules and regulations necessary to insure the proper administration and enforcement of the provisions of this chapter, and for those purposes to serve as consultants to the department. The appointments shall be made from lists of at least three nominees for each position submitted by appropriate

professional associations and societies designated by the Director of Health Services, and provisions shall be made for orderly rotation of membership.

SEC. 318. Section 25771 of the Health and Safety Code is amended to read:

25771. The State Department of Health Services shall keep current information on the permits or licenses issued by the United States Atomic Energy Commission in the state and, along with current information on the radiation sources licensed or registered under the provisions of Section 25815, shall transmit such information upon request to any state department or agency or member of the public.

SEC. 320. Section 25896 of the Health and Safety Code is amended to read:

25896. Any person is guilty of a misdemeanor who manufactures, sells, or exchanges, has in his possession with intent to sell or exchange, or exposes or offers for sale or exchange to any retailer, any toy which either (1) is coated with paints and lacquers containing compounds of lead of which the lead content (calculated as Pb) is in excess of that permitted by federal regulations contained in Section 1500.17 of Title 16 of the Code of Federal Regulations adopted pursuant to the Federal Hazardous Substances Act, Chapter 30 (commencing with Section 1261) of Title 15 of the United States Code, or soluble compounds of antimony, arsenic, cadmium, mercury, selenium or barium, introduced as such; compounds are considered soluble if quantities in excess of 0.1 percent are dissolved by 5 percent hydrochloric acid after stirring for 10 minutes at room temperature; (2) consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance; (3) has been produced, prepared, packed or held under unsanitary conditions; (4) is stuffed, padded, or lined with materials which are toxic or which would otherwise be hazardous if ingested; or (5) is stuffed, padded, or lined toy which is not securely wrapped or packaged.

The State Department of Health Services and local health officers shall enforce the provisions of this chapter.

SEC. 321. Section 25990.5 of the Health and Safety Code is amended to read:

25990.5. The State Department of Health Services may promulgate regulations governing the entry, quarantine, or release from quarantine, of any and all wild animals imported into this state pursuant to the provisions of this chapter. The regulations shall be designed to protect the public health against diseases known to occur in any such animals.

SEC. 322. Section 26007 of the Health and Safety Code is amended to read:

26007. "Department" means the State Department of Health Services.

SEC. 323. Section 26008 of the Health and Safety Code is amended to read:

26008. "Director" means the State Director of Health Services.

SEC. 324. Section 27000 of the Health and Safety Code is amended to read:

27000. "Processed pet food" means a food for pets which has been prepared by heating, drying, semidrying, canning, or by a method of treatment prescribed by regulation of the State Department of Health Services. The term includes special diet, health foods, supplements, treats and candy for pets, but does not include fresh or frozen pet foods subject to the control of the Department of Food and Agriculture of this state.

SEC. 325. Section 27002 of the Health and Safety Code is amended to read:

27002. "Pet food ingredients" means each of the constituent materials making up a processed pet food. Pet food ingredients of animal or poultry origin shall be only from animals or poultry slaughtered or processed in an approved or licensed establishment. Such animal or poultry ingredients condemned for human food but passed for animal food in an establishment inspected by the United States Department of Agriculture or the Department of Food and Agriculture of this state may be used for pet food, provided it is properly denatured or handled in accordance with this chapter and regulations of the State Department of Health Services and the regulations of the Department of Food and Agriculture of this state so as to render the ingredients safe for pet food. Animals or poultry classified as "deads" are prohibited.

SEC. 326. Section 27010 of the Health and Safety Code is amended to read:

27010. Every person who manufactures a processed pet food in California shall first obtain a license from, and every person who manufactures a processed pet food for import into California from another state shall first obtain a registration certificate from, the State Department of Health Services. Each license or registration certificate is good for one calendar year from the date of issue and is nontransferable.

An application for a license or registration certificate shall be made on an application form provided by the department.

SEC. 327. Section 27041 of the Health and Safety Code is amended to read:

27041. The provisions of this chapter shall be administered by the State Department of Health Services in accordance with the provisions of Division 21 (commencing with Section 26000) of this code.

SEC. 328. Section 28127 of the Health and Safety Code is amended to read:

28127. The State Director of Health Services shall keep a full and correct account of all fees received under this chapter. At least once each month he shall deposit all such fees with the State Treasurer for credit to the State General Fund.

SEC. 329. Section 28149 of the Health and Safety Code is

amended to read:

28149. For the purpose of determining whether or not food locker plants come under the provisions of this chapter, the operators or owners of all such frozen food locker plants shall make available, upon request to any agent of the State Department of Health Services, the names and addresses of any and all persons, firms, or corporations renting, leasing or occupying such lockers or compartments.

SEC. 330. Section 28180 of the Health and Safety Code is amended to read:

28180. The State Department of Health Services shall enforce this chapter.

SEC. 331. Section 28211 of the Health and Safety Code is amended to read:

28211. All bakery products produced, prepared, packed, sold or offered for sale shall comply with the provisions of Division 21 (commencing with Section 26000) of this code, except as exempted in Section 28210. The State Department of Health Services shall enforce the provisions of this section which pertain to adulteration, standards of identity, and labeling of bakery products.

SEC. 332. Section 28214 of the Health and Safety Code is amended to read:

28214. The State Department of Health Services may adopt regulations for the administration of this chapter. Any violation of such regulations is a violation of this chapter.

SEC. 333. Section 28322 of the Health and Safety Code is amended to read:

28322. A nonalcoholic soft drink, whether or not carbonated, shall be deemed to be misbranded if in a bottle or other closed container unless the name and address of the bottler or distributor thereof appears on such container by being molded, printed, or otherwise labeled thereon, or said name and address is shown on the crown or cap of such container if such container is a permanently and distinctively branded bottle. Such a beverage shall not be deemed to be misbranded under this section if in a bottle or other closed container on which is molded, printed or otherwise labeled the product name, trademark or brand of the distributor or bottler thereof and if a sworn affidavit has been filed with the State Department of Health Services stating the name, trademark, or brand of such beverage, a full and complete description of each territory or area of the state in which such beverage is to be distributed, and the names and addresses of such persons as are responsible for compliance with this division in the bottling and distribution of such beverage in each territory or area of the state in which such beverage is distributed. Nothing in this section shall be deemed to exempt any bottler or distributor of a beverage or beverages from any provision of Division 21 (commencing with Section 26000) of this code.

SEC. 334. Section 28360 of the Health and Safety Code is

amended to read:

28360. "State board," or "State Board of Public Health," as used in this chapter, means the State Department of Health Services.

SEC. 335. Section 28380 of the Health and Safety Code is amended to read:

28380. There is in the state government a Cannery Inspection Board consisting of the following six members:

(a) The director of the state department, who shall act as chairman.

(b) One man appointed by the State Director of Health Services who shall have had at the time of his appointment at least 10 years experience in or with canning technology and has a degree in chemistry, bacteriology or medicine.

(c) Four men appointed by the state department who are experienced, have substantial investments and are actively engaged in the canning industry at the time of their appointment.

One of the four appointive members shall be engaged in the canning of animal food.

SEC. 336. Section 28451 of the Health and Safety Code is amended to read:

28451. All money received by the State Department of Health Services under the provisions of this chapter shall be paid at least once each month to the State Treasurer, and on order of the State Controller, shall be deposited in the General Fund in the State Treasury.

SEC. 337. Section 28452 of the Health and Safety Code is amended to read:

28452. Notwithstanding the provisions of Section 28451, the State Department of Health Services and the Department of Finance may authorize the deposit in the Special Deposit Fund of cash deposits received by the State Department of Health Services under the provisions of Section 28412; and in such event, upon the determination by the State Department of Health Services that all or a part of any such deposit is due the state for payment on account of the depositor's pro rata share of costs incurred by the state under this chapter, the amount so determined shall, on order of the State Controller, be transferred from the Special Deposit Fund to the General Fund.

All money deposited in the Special Deposit Fund under the provisions of this section shall be subject to the provisions of Article 2 (commencing with Section 16370) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

SEC. 338. Section 28616.1 of the Health and Safety Code is amended to read:

28616.1. All mobile units, upon which food is prepared, except mobile units to which the local health officer has issued written authorization to operate at a special public event, shall operate out of a commissary or other facility approved by the local health officer. All mobile units upon which food is prepared shall be subject to

approval by the local health officer and shall be cleaned at the approved commissary or other approved facility after each day's use and before being used again. The commissary shall meet the requirements of Article 2 (commencing with Section 28540) of this chapter, any rules and the regulations applicable to commissaries adopted by the State Department of Health Services pursuant to Section 28694.5, and any additional local standards applicable to commissaries. All mobile units upon which food is prepared shall meet the requirements of Article 3 (commencing with Section 28590) of this chapter, any rules and regulations applicable to mobile units adopted by the State Department of Health Services pursuant to Section 28694.5, and any additional local standards applicable to mobile units.

No food, beverage, or ingredient of food or beverage may be placed on a mobile unit upon which food is prepared except at an approved commissary or other approved facility or directly from a vendor under inspection by the state department or a local health department, or both.

The operator of a mobile unit upon which food is prepared shall maintain a record on such mobile unit which shows the source of all foods, beverages and ingredients of foods and beverages used on such mobile unit and the location of the commissary or other approved facility from which the mobile unit is operated. Such record shall be available for examination by the local health officer or any representative of the state department when the mobile unit is being operated. The failure to maintain such record or the refusal to permit the examination shall be sufficient ground for the revocation of the approval of the mobile unit to operate.

SEC. 339. Section 28694.5 of the Health and Safety Code is amended to read:

28694.5. (a) The State Department of Health Services shall adopt rules and regulations prescribing such additional requirements for commissaries and mobile units upon which food is prepared and for the administration of Articles 2 (commencing with Section 28540) and 3 (commencing with Section 28590) of this chapter as it determines are reasonably necessary for the protection of the public health and safety. Any violation of such rules and regulations is a violation of this chapter.

(b) Except as otherwise provided in this subdivision, no rule or regulation adopted pursuant to subdivision (a) shall be applicable, within any state park depicting or reproducing historical conditions or usages, to any mobile unit which is, or which depicts or represents, any wagon, cart, or other drawn device that is of the historical period during which such conditions or usages occurred. The exemption contained in this subdivision shall not be applicable to mobile units serving, offering for sale, selling, or giving away foods or beverages which are not packaged in sealed containers or which are not foods or beverages which have been approved for unpackaged sale from such mobile units by the state department as consistent with public

health and safety.

SEC. 340. Section 28700 of the Health and Safety Code is amended to read:

28700. When used in this chapter, unless the context otherwise requires:

(a) "Food" means any article used by man for food, drink, confectionery or condiment, or which enters into the composition thereof, whether simple, blended, mixed or compounded.

(b) "Locker" means the individual sections or compartments of a capacity of not to exceed 25 cubic feet in the locker room of a frozen food locker plant.

(c) "Frozen food locker plant" means an establishment in which space in such individual lockers is rented, leased or loaned to individuals, firms or corporations, for the storage of food for their own use and which is artificially cooled for the purpose of preserving such food. The term includes service locker plant, storage locker plant and branch locker plant.

(d) "Service locker plant" means a frozen food locker plant in which patrons' foods are prepared or packaged by the operator of such plant before such foods are placed in the lockers for storage.

(e) "Storage locker plant" means a frozen food locker plant, the operator of which does not prepare or package the foods of patrons.

(f) "Branch locker plant" means a frozen food locker plant in any location or establishment artificially cooled in which space in individual lockers is rented, leased or loaned to individuals, firms or corporations for the storage of food for their own use after preparation for storage in a central or parent plant.

(g) "Frozen" means food frozen in a room or compartment in which the temperature is plus 5 degrees F. or lower.

(h) "Temperature" means the average air temperature in refrigerated rooms

(i) "Department" means the State Department of Health Services.

(j) "Operator" means any person, firm or corporation operating or maintaining a frozen food locker plant.

(k) "Processor" means an establishment in which, for compensation directly or indirectly, meat or meat products are cut, wrapped, or frozen to be delivered for frozen storage by the ultimate consumer.

SEC. 341. Section 28716 of the Health and Safety Code is amended to read:

28716. Every operator of a frozen food locker plant, shall keep a record showing names and addresses of renters of lockers and such records shall be available for examination by the Director of Food and Agriculture or his representatives, or the State Department of Health Services or its representatives, during business hours of such plants.

SEC. 342. Section 28742 of the Health and Safety Code is amended to read:

28742. "Department" means the State Department of Health Services.

SEC. 343. Section 28863 of the Health and Safety Code is amended to read:

28863. The provisions of this chapter shall apply to all parts of the state. The State Department of Health Services may adopt such rules and regulations as it determines are reasonably necessary to interpret and carry out the provisions of this chapter. When adopted, such rules and regulations shall apply to all parts of the state. The state department shall investigate to determine satisfactory enforcement of this chapter by local authorities.

SEC. 344. Section 32127.2 of the Health and Safety Code is amended to read:

32127.2. Exclusively for the purpose of securing state insurance of financing for the construction of new health facilities, the expansion, modernization, renovation, remodeling and alteration of existing health facilities, and the initial equipping of any such health facilities under Chapter 4 (commencing with Section 436) of Part 1 of Division 1, and notwithstanding any provision of this division or any other provision or holding of law, the board of directors of any district may (a) borrow money or credit from private or public lenders, as well as by the financing methods specified in this division, and (b) execute in favor of the state first mortgages, first deeds of trust, and such other necessary security interests as the State Department of Health Services may reasonably require in respect to a health facility project property as security for such insurance. No payments of principal, interest, insurance premium and inspection fees, and all other costs of state-insured loans obtained under the authorization of this section shall be made from funds derived from the district's power to tax. It is hereby declared that the authorizations for the executing of such mortgages, deeds of trust and other necessary security agreements by the board and for the enforcement of the state's rights thereunder is in the public interest in order to preserve and promote the health, welfare, and safety of the people of this state by providing, without cost to the state, a state insurance program for health facility construction loans in order to stimulate the flow of private capital into health facilities construction to enable the rational meeting of the critical need for new, expanded and modernized public health facilities.

SEC. 345. Section 32201 of the Health and Safety Code is amended to read:

32201. Annually, on or before August 1st, the board of directors of each local hospital district shall furnish to the board of supervisors and county auditor of the county in which the district or any part thereof is situated an estimate in writing of the amount of money necessary to be raised by taxation for all purposes required under the provisions of this division during the next ensuing fiscal year. In addition to such written estimate the board of directors of each local hospital district shall furnish to the board of supervisors for each tax

year occurring after the second full fiscal year of actual hospital operations a certified copy of a resolution of said board of directors finding that the rates and charges made for services and facilities in the hospital on an overall basis are comparable to charges made for similar services and facilities by the nonprofit hospitals operated within the hospital service area in which the district hospital is located. No such certificate need be furnished if there are no nonprofit hospitals in such service area. Such hospital service area shall be as from time to time delineated by the State Department of Health Services.

SEC. 346. Section 32354 of the Health and Safety Code is amended to read:

32354. The program established by the Chowchilla Memorial Hospital District and others who enter such a joint powers agreement shall be deemed to be a pilot project to be used as a guide for the State Department of Health Services in establishing the Rural California Professional Liability Loan Program in the event Assembly Bill 2865 of the 1975–76 Regular Session is enacted, and in such case funds for loans under this chapter shall be made available from the Rural California Professional Liability Loan Fund upon creation by the State Controller.

SEC. 347. Section 34700 of the Health and Safety Code is amended to read:

34700. The Legislature finds and declares that recent deemphasis of programs of institutional care for the developmentally disabled, the mentally disordered, and the physically disabled has resulted in participation by many of such persons in programs of rehabilitation, education, and social services within the community. Because of the outpatient status of persons enrolled in such programs, there is a need to provide housing for them which will aid in accomplishment and maintenance of the objectives of such programs, thereby minimizing the numbers of developmentally disabled, mentally disordered, and physically disabled persons in public institutions and improving the quality of life for such persons. In order to assist in providing the variety of living arrangements required for such purpose, it is necessary that the state cooperate with cities, counties, cities and counties, and nonprofit corporations in obtaining federal housing subsidies therefor.

It is the intent of the Legislature in enacting this part to vest in the Department of Housing and Community Development authority to obtain federal housing subsidies for housing for persons requiring continuing care, as defined in this part. Assessment of needs and priorities shall, however, be performed by the State Department of Developmental Services or the State Department of Mental Health, which has overall responsibility for programs for the developmentally disabled and mentally disordered at the state level.

SEC. 349. Section 34702 of the Health and Safety Code is amended to read:

34702. As used in this part, "developmentally disabled" means

affected by a disability specified in subdivision (a) of Section 4512 of the Welfare and Institutions Code, and also means persons affected by such a disability.

SEC. 350. Section 34705 of the Health and Safety Code is amended to read:

34705. As used in this part, "persons requiring continuing care" means persons not confined in an institution under the jurisdiction of the State Department of Developmental Services or State Department of Mental Health who are eligible to receive housing assistance pursuant to federal law because of financial inability to provide adequate housing for themselves or persons dependent upon them and who meet the following criteria.

(a) The person shall have been determined to be developmentally disabled by the State Department of Developmental Services or State Department of Mental Health, a county health department, or a regional center established pursuant to Section 4561 of the Welfare and Institutions Code; or

(b) The person shall have been determined to be mentally disordered by a local director of mental health services, or by the designated representative thereof; or

(c) The person shall have been determined to be physically disabled by the State Department of Developmental Services or State Department of Mental Health.

SEC. 351. Section 34709 of the Health and Safety Code is amended to read:

34709. The department, after consultation with the State Department of Developmental Services or the State Department of Mental Health, may adopt, amend or repeal regulations for the administration of this part. The State Department of Developmental Services or the State Department of Mental Health shall review all applications submitted pursuant to this part for assistance in obtaining federal housing subsidies and shall recommend priorities on the basis of need and greatest impact. The State Department of Developmental Services or the State Department of Mental Health shall annually, or as often as reasonably required, solicit from local agencies and nonprofit corporations proposals for utilization of federal housing subsidies for persons requiring continuing care.

Based upon the recommendations of the State Department of Developmental Services or the State Department of Mental Health, the Department of Housing and Community Development shall at least annually submit one or more applications for federal housing subsidies for persons requiring continuing care.

SEC. 352. Division 25 (commencing with Section 38000) of the Health and Safety Code is repealed.

SEC. 353. Section 11501 of the Insurance Code is amended to read:

11501. No corporation subject to the provisions of this chapter shall establish, maintain and operate its hospital service plan unless and until it shall have procured a certificate of approval from the

State Department of Health Services approving the hospital, or hospitals, with which such corporation has entered, or proposes to enter, into contracts for the furnishing of hospital service to its subscribers and such corporation shall not enter into any contract with any hospital within this state for the furnishing of hospital service to its subscribers unless the hospital with which it contracts has procured a certificate of approval from said department; provided, however, that hospital services may be rendered to the subscriber in a hospital not holding a certificate of approval if the subscriber requiring hospitalization has removed from or is absent from the state, or in cases of emergency where immediate treatment is necessary and removal to an approved hospital would endanger the life or health of the subscriber. The State Department of Health Services shall not issue any certificate of approval provided for in this chapter unless and until the applicant therefor shall have established to the satisfaction of said department that the hospitals wherein subscribers to hospital service plans concerned are to be hospitalized possess adequate physical facilities, mechanical equipment, and personnel for the study, diagnosis, treatment and care of patients.

SEC. 354. Section 11502 of the Insurance Code is amended to read:

11502. The State Department of Health Services, before issuing its certificate authorizing any hospital within the State of California to furnish hospital services under any hospital service plan, shall cause the hospital to be inspected by an inspector appointed by the said department. The report of such inspection shall be filed with the State Department of Health Services. If the State Department of Health Services shall find after such inspection that the hospital making application to render hospital services under the hospital service plan fully complies with and possesses the standards set forth in Section 11501, it shall issue its certificate of approval upon the payment of a registration fee, not to exceed twenty-five cents ($0.25) per bed, computed upon the daily average number of beds, other than bassinets, occupied during the preceding calendar year, but in no event less than fifteen dollars ($15) per hospital.

SEC. 355. Section 11503 of the Insurance Code is amended to read:

11503. The State Department of Health Services shall have the right and power to investigate, regulate and enforce the hospital standards set forth in Section 11501 in respect to all hospitals furnishing and rendering hospital services under the provisions of this chapter and to revoke certificates of approval theretofore issued to any hospital, or any hospital service corporation. Upon complaint deemed by the department to be sufficient to warrant such action, or upon its own motion, the State Department of Health Services shall hold a hearing at which the corporation or hospital under investigation and against which action is proposed to be taken shall have the right to be heard. At such hearing the department shall have the right to order and direct the corporation or the hospital, as

the case may be, and within such period of time as the board may prescribe, to remedy and remove the causes complained of and in which to comply with the acts and things required in such order, and may continue the hearing until the expiration of said period of time. If the department upon final hearing shall find that its order has not been complied with, and that the hospital does not possess the hospital standards set forth in Section 11501, or that services are rendered by the hospital service corporation in and through hospitals not possessing said standards, the board shall enter its order revoking the certificate of approval to any such hospital or hospital service corporation and shall notify the Commissioner of Insurance in writing of the fact of such revocation and of the fact that the services rendered under the hospital service plan are not being rendered by hospitals holding certificates of approval. Upon receipt of such notice, it shall be the duty of the Commissioner of Insurance to revoke his certificate of authority to the establishment, maintenance and operation by such corporation of a nonprofit hospital service plan. The proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the State Department of Health Services shall have all the powers granted therein.

SEC. 356. Section 11505 of the Insurance Code is amended to read:

11505. The Commissioner of Insurance shall not issue his certificate of authority to any corporation proposing to establish, maintain or operate a nonprofit hospital service plan until such corporation shall have established:

(a) That the corporation has entered into contracts with hospitals in the State of California holding certificates of approval issued by the State Department of Health Services and having an aggregate bed capacity sufficient to render the services contemplated to be furnished under the hospital service plan to persons in the State of California.

(b) That the contract proposed to be entered into by such corporation with those who may become subscribers is not such as will work a fraud or injustice upon such subscribers or any person.

(c) That the rates, dues, fees or other periodic charges to be imposed upon subscribers and the fees, rates or other considerations to be paid for services rendered to subscribers, are not such as will, after providing for such legal reserves as the Insurance Commissioner may deem necessary and reasonable, result in profit to such corporation, and are such as will enable such corporation to furnish or provide the hospital services which it proposes to make available to its subscribers without impairment of the legal reserves fixed and required by the Insurance Commissioner, and without a constant depletion of the assets of such corporation.

SEC. 357. Section 1690.1 of the Labor Code is amended to read:

1690.1. If any licensee fails to remit the proper amount of worker contributions required by Chapter 4 (commencing with Section 901)

of Part 1 of Division 1 of the Unemployment Insurance Code, or the Employment Development Department has made an assessment for such unpaid worker contributions against the licensee that is final, the Labor Commissioner shall, upon written notice by the Employment Development Department, refuse to issue or renew the license of such licensee until such licensee has fully paid the amount of delinquency for such unpaid worker contributions.

The Labor Commissioner shall not, however, refuse to renew the license of a licensee under this section until the assessment for unpaid worker contributions is final and unpaid, and the licensee has exhausted, or failed to seek, his right of administrative review of such final assessment, pursuant to Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code.

SEC. 358. Section 72 of the Penal Code is amended to read:

72. Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or district board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such imprisonment and fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars ($10,000), or by both such imprisonment and fine.

As used in this section "officer" includes a "carrier," as defined in Section 14261 of the Welfare and Institutions Code, authorized to act as an agent for a state board or officer or a county, city, or district board or officer, as the case may be.

SEC. 359. Section 830.3 of the Penal Code is amended to read:

830.3. (a) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) Any inspector or investigator regularly employed and paid as such in the office of a district attorney is a peace officer.

The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed, or which there is probable cause to believe has been committed, within the county which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with

respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

(c) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.

(d) The Chief and investigators of the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance, are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(e) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(2) Other deputies of the Department of Fish and Game deputized pursuant to Section 851 of the Fish and Game Code, and county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary fire wardens as are designated by him pursuant to Section 4156 of the Public Resources Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(g) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(h) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the

Penal Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any horseracing enclosure licensed pursuant to the Horse Racing Law.

(i) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008, respectively, of such code.

(j) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(k) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department or fire protection agency of the state, or a county, city, or district regularly paid and employed as such, are peace officers; provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the primary duty, except as provided in Section 8597 of the Government Code, of fire department or fire protection agency members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investigators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(*l*) The Chief and such inspectors of the Bureau of Food and Drug as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers; provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(m) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers; provided, that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(n) Members of a community college police department appointed pursuant to Section 25429 of the Education Code are

peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 25429 of the Education Code.

(o) All investigators of the Division of Labor Law Enforcement, as designated by the Labor Commissioner, are peace officers; provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(p) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Abuse and the Office of Statewide Health Planning and Development are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of such departments and office. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, the investigators shall not carry firearms.

(q) The authority of any peace officer listed in subdivisions (c) through (p), inclusive, extends to any place in the state; provided, that except as otherwise provided in this section, Section 830.6 of this code, or Section 8597 of the Government Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circumstances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action.

SEC. 360. Section 830.4 of the Penal Code is amended to read:

830.4. (a) The following persons are peace officers while engaged in the performance of the duties of their respective employments:

(1) Security officers of the California State Police Division.

(2) The Sergeant at Arms of each house of the Legislature.

(3) Bailiffs of the Supreme Court and of the courts of appeal.

(4) Guards and messengers of the Treasurer's office.

(5) The Director of the Department of Navigation and Ocean Development and employees of such department designated by him pursuant to Section 71.2 of the Harbors and Navigation Code.

(6) The hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and police officers designated by him pursuant to Section 4312 or 4492, respectively, of the Welfare and Institutions Code.

(7) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(8) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(9) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(10) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973, shall have completed the course of instruction within 60 days after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(11) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(12) Persons employed as members of a security patrol of a school district pursuant to Section 15832 of the Education Code.

(13) Duly authorized federal employees, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

(14) Security guards of the County of Los Angeles.

(15) (A) Persons regularly employed and designated by the Board of Directors of the Monterey Peninsula Airport District as airport policemen.

(B) Any such person employed on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any person so employed after July 6, 1973, shall have completed the course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the

powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(16) Any person regularly employed as an airport security officer by any airport operated by the City and County of San Francisco, Orange County, or the County of San Joaquin if he meets the following requirements:

(A) If employed by the City and County of San Francisco or Orange County on or before July 6, 1973, he shall have completed the course of instruction required by Section 832 by September 1, 1973, or if employed after July 6, 1973, he shall have completed such course of instruction within 60 days after such employment. If employed by the County of San Joaquin on or before September 25, 1973, he shall have completed the course of instruction required by Section 832 by December 1, 1973; or if employed after September 25, 1973, he shall have completed such course of instruction within 60 days after such employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(B) He shall be commissioned as a peace officer by the police commission or the board of supervisors of the city and county, or county, as the case may be, operating the airport.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(D) In the case of any person regularly employed as an airport security officer by any such airport located in the County of San Mateo, he shall either be deputized by, or have the written consent of, the Sheriff of San Mateo County.

(17) Housing authority patrol officers employed by the City of Los Angeles or by the Housing Authority of the County of Contra Costa or by the Housing Authority of the County of Los Angeles.

(18) (A) Persons regularly employed and designated by the City of Fresno as airport security officers for the Fresno Air Terminal.

(B) Before exercising the powers of a peace officer, all persons so employed shall have satisfactorily completed the course of instruction so required by Sections 832 and 832.1.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(19) Any person regularly employed as an airport security officer by any airport operated by the City of Palm Springs if he meets the following requirements:

(A) If employed by the City of Palm Springs on or before July 1,

1976, he shall have completed the course of instruction required by Section 832 by September 1, 1976, or if employed after July 1, 1976, he shall have completed the course of instruction required by Section 832 within 60 days of employment. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer.

(B) He shall be commissioned as a peace officer by the City Council of the City of Palm Springs.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(b) The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed with respect to persons or property the protection of which is the immediate duty of such officer.

SEC. 361. Section 1370.1 of the Penal Code is amended to read:

1370.1. Notwithstanding the provisions of Section 1370, if the court has reason to believe that the defendant's inability to understand the nature and purpose of the criminal proceedings taken against him so as to be able to conduct, or assist in, his own defense in a rational manner is a result of a developmental disability, the trial or judgment shall be suspended, and the court shall order the regional center for the developmentally disabled, which serves the counties in which (1) the individual resides or resided prior to apprehension, (2) persons found by the regional center to be responsible for or concerned with the welfare of the developmentally disabled person reside, or (3) the court is located, and which is established under the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code, to examine the defendant and within 90 days report to the court the results of the examination and its recommendation for the care and treatment of the defendant. As used in this section, "developmental disability" means a disability which continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature. The court may make such orders as may be necessary to provide for the examination of such person by the regional center and for the safekeeping, necessary medical treatment, care or restraint of the defendant pending further orders of the court following receipt of the regional center's report, in the county hospital, his own home, in

a state hospital, or in such other place, excluding a jail, as will afford access to personnel of the regional center for the purpose of examination and suitable provisions for the safety, treatment, care, and restraint of the defendant. If the regional center reports that the defendant is not developmentally disabled, the court shall make the appropriate order under Section 1370. If the regional center reports that the defendant is developmentally disabled and is a danger to himself or others and therefore subject to commitment to a state hospital pursuant to Article 5 (commencing with Section 6500), Chapter 2, Part 2, Division 6, of the Welfare and Institutions Code, the regional center shall recommend the initiation of proceedings to commit the defendant to a state hospital pursuant to Article 5. If the regional center reports that the defendant is developmentally disabled but is not subject to commitment to a state hospital pursuant to Article 5, the regional center shall make such recommendations as it deems best for the care and treatment of the defendant. Upon receiving the report and recommendations of the regional center, the court shall order that commitment proceedings pursuant to Article 5 be instituted if such defendant is subject to commitment thereunder, or, if not so subject to commitment, it shall order the defendant placed in a home or facility, or state hospital recommended by the regional center for care and treatment or in some other home, facility, or state hospital approved by the regional center for the care and treatment of the defendant. The regional center shall reexamine each defendant placed in a home or facility or state hospital, or committed to a state hospital, at least once each year to make a report to the court as to its recommendations for the coming year. The regional center shall have the responsibility of reporting to the court the results of its reexamination, including the client's progress for the past year, and its recommendation for the care and treatment of the defendant for the coming year, the facility best able to provide care and treatment for the coming year, and the estimated period of time required for care and treatment. The regional center shall evaluate the defendant's behavior and his progress in the treatment of those behaviors related to the criminal offense or offenses for which criminal proceedings have been currently suspended, to determine if those behaviors have been sufficiently modified to warrant a recommendation that criminal charges be dismissed. If the regional center evaluation indicates that the individual presents the dual disability of mental retardation and mental disorder, and the presenting diagnosis is mental disorder, the regional center shall so indicate to the court, with a recommendation for commitment for the care and treatment of the mental disorder in a state hospital, or any other appropriate public or private mental health treatment facility approved by the regional center until such time as the mental disorder is in remission and the individual can be suitably placed in a treatment program for mentally retarded persons.

After the initial recommendation by the regional center is

received by the court, the court may dismiss the charges or continue suspension of the charges. The regional center shall closely monitor the defendant and the program and closely monitor the defendant's progress. Should the recommended program be inappropriate to the specific needs of the defendant, or should his behaviors require a more restrictive program, the court shall be apprised of such requirements and subsequent recommendation for change of program plan for the defendant. If the regional center ascertains that the condition of the defendant has changed to the extent that the defendant is able to understand the nature and purpose of the criminal proceedings taken against him so as to be able to conduct, or assist in, his own defense in a rational manner, it shall certify the finding to the court wherein the defendant's case is pending, the district attorney and the defense attorney of record. Proceedings may be resumed, or the charges may be dismissed. In no event shall proceedings under this section exceed the maximum sentence prescribed by law for the offense charged, or three years, whichever is less. After such period of time, the criminal case shall be dismissed.

Any time spent in proceedings or programs under this section, whether in a facility or outside a facility, shall be credited against any sentence to which the defendant may be subject. If, at any time prior to the maximum period of time allowed for proceedings under this section, the regional center concludes that the behaviors of the defendant related to the defendant's criminal offense have been sufficiently modified during time spent in court-ordered programs, the court may, upon recommendation of the regional center, dismiss the criminal charges. In the event of dismissal of the criminal charges, the person shall be rereferred to the appropriate regional center for services under the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code.

SEC. 362. Section 2684 of the Penal Code, as amended by Chapter 165 of the Statutes of 1977, is amended to read:

2684. If, in the opinion of the Director of Corrections, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of Corrections, with the approval of the Community Release Board for persons sentenced pursuant to subdivision (b) of Section 1168, shall certify that fact to the director of the appropriate department who shall evaluate the prisoner to determine if he would benefit from care and treatment in a state hospital. If the Director of Health so determines, the superintendent of the hospital shall receive the prisoner and keep him until in the opinion of the superintendent such person has been treated to such an extent that he will not benefit from further care and treatment in a state hospital.

SEC. 363. Section 2960 of the Penal Code is amended to read:

2960. Before discharging any person who is a danger to others as a result of mental disorder, the Director of Corrections may, upon reasonable cause, place, or cause to be placed, the person in a facility designated by a county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation or in a 14-day intensive treatment facility pursuant to the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

A county may designate, and the State Department of Mental Health may approve, for the purposes of this article, a medical facility of the Department of Corrections as a facility for 72-hour treatment and evaluation, a facility for 14-day intensive treatment, or both. The cost of treatment and evaluation or intensive treatment under this article shall be a state expense.

Any person placed outside of a facility of the Department of Corrections for the purposes of treatment and evaluation or intensive treatment under the article shall not be deemed to be released from imprisonment or from the custody of the Department of Corrections prior to the expiration of the maximum term of imprisonment of the person.

No person may be confined in a Department of Corrections facility designated as a 72-hour treatment and evaluation or a 14-day intensive treatment facility pursuant to this article beyond the date of his discharge from the Department of Corrections.

SEC. 364. Section 1435.6 of the Probate Code is amended to read:

1435.6. If the alleged incompetent person is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the petition shall set forth the name of such institution, and a copy of such notice and petition shall be mailed to the director of the appropriate department at his office in Sacramento at least 10 days prior to the hearing, and the director may appear and represent the interests of such incompetent spouse.

SEC. 365. Section 1435.7 of the Probate Code is amended to read:

1435.7. If a spouse alleged in the petition to be incompetent has not been so found in proceedings under Division 4 or Division 5, or thereafter has been restored to capacity as in this code provided, such spouse, if able to attend, must be produced at the hearing. If such spouse is not able to attend by reason of mental or physical condition, the affidavit or certificate of a duly licensed physician, surgeon, or other medical practitioner, or the certificate of the medical superintendent or acting medical superintendent of a state hospital in this state in which such spouse is a patient, shall be prima facie evidence of the facts therein stated as to the inability of the spouse to attend.

If such spouse is not represented at the hearing by his guardian, or by the public guardian or public administrator or his deputy or assistant, or by the Director of Mental Health or the Director of Developmental Services, the court may, in its discretion, appoint a

guardian ad litem to represent the interests of such spouse, and he may be allowed a reasonable fee to be fixed by the court and paid out of the cash proceeds of the transaction or otherwise as the court shall direct.

SEC. 366. Section 1440.3 of the Probate Code is amended to read:

1440.3. The provisions of Section 1440, requiring allegations in a petition, and Sections 1440.1 and 1440.2 shall not apply where the Director of Mental Health or the Director of Developmental Services is appointed guardian or conservator pursuant to Article 7.5 (commencing with Section 416) of Division 1 of the Health and Safety Code.

SEC. 367. Section 1461.3 of the Probate Code is amended to read:

1461.3. If the alleged incompetent person is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and such fact is known to the petitioner, the petitioner shall name the institution in the petition, and shall give notice of the filing of the petition for appointment of a guardian and of the time and place of the hearing by mailing such notice and a copy of the petition to the director of the appropriate department at his office in Sacramento at least 15 days before the hearing unless the time is shortened by the court for good cause shown.

SEC. 368. Section 1535 of the Probate Code is amended to read:

1535. When the ward is or has been, during the guardianship, confined in a state hospital in this state, notice of the hearing of the return must be given to the Director of Mental Health if the state hospital is for the mentally disordered, or to the Director of Developmental Services if the state hospital is for the developmentally disabled , at his office in Sacramento at least 15 days before the hearing.

SEC. 369. Section 1554 of the Probate Code is amended to read:

1554. No account of the guardian of an incompetent person who is or has been during the guardianship confined in a state hospital in this state shall be settled or allowed unless notice of the time and place of hearing and a copy of the account have been given to the Director of Mental Health or the Director of Developmental Services, whichever director has jurisdiction of the state hospital , at his office in Sacramento at least 15 days before the hearing. The statute of limitations shall not run against any claim of the department of such director against the estate of the incompetent for board, care, maintenance or transportation if the account is settled without giving the notice prescribed above.

SEC. 370. Section 1558 of the Probate Code is amended to read:

1558. On the application of the guardian or next of kin of an insane or incompetent person, the court may direct the guardian to pay and distribute surplus income, not used for the support and maintenance of the ward, or any part of such surplus income, to the next of kin whom the ward would, in the judgment of the court, have aided, if said ward had been of sound mind. The granting of such

allowance and the amounts and proportions thereof shall be discretionary with the court, but the court shall give consideration to the amount of surplus income available after due provision has been made for the proper support and maintenance of the ward, to the circumstances and condition of life to which the ward and said next of kin have been accustomed and to the amount which the ward would, in the judgment of the court, have allowed said next of kin, had said ward been of sound mind. Notice of the hearing of said application shall be given as provided in Section 1557 of this code. When the ward is or has been, during the guardianship, confined in a state hospital in this state, notice of hearing and copy of the petition must be given to the Director of the State Department of Mental Health or the Director of the State Department of Developmental Services, whichever director has jurisdiction of such state hospital, at his office in Sacramento at least 15 days before the hearing.

The term "surplus income," as used herein, includes any income received by the guardian during the guardianship, whether received before or after September 15, 1935.

SEC. 371. Section 7057 of the Revenue and Taxation Code is amended to read:

7057. Any officer or employee of the Board of Equalization authorized to accept an application for a seller's permit under Section 6066 of this code or authorized to register a retailer under Section 6226 of this code shall at the time of acceptance of such an application or such registration, ascertain whether or not the person is also required to register as an employer under Section 1086 of the Unemployment Insurance Code, and if so shall register the person as an employer on a form provided by the Employment Development Department and shall promptly notify the Employment Development Department of such registration.

SEC. 372. Section 17061 of the Revenue and Taxation Code is amended to read:

17061. (a) In the case of a person entitled to a refund pursuant to Section 1176 of the Unemployment Insurance Code, there shall be a credit against the tax imposed under this part in the amount of such refund. If the tax due after deduction of any other credit under this part is less than the credit allowable pursuant to this section, the difference shall be a tax refund.

(b) If the Franchise Tax Board disallows the refund or credit provided for by this section, the Franchise Tax Board shall notify the claimant accordingly. The Franchise Tax Board's action upon the credit or refund is final unless the claimant files a protest with the Director of Employment Development pursuant to Section 1176.5 of the Unemployment Insurance Code. None of the remedies provided by this part shall be available to such claimant.

SEC. 373. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis

of any certified pollution control facility (as defined in subdivision (d)), based on a period of 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 17208. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1971, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which the State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which

is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1970, or

(ii) Acquired after December 31, 1970, if the original use of the property commences with the taxpayer and commences after such date, and

(B) Is placed in service by the taxpayer before January 1, 1976. In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1970.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

SEC. 374. Section 19268 of the Revenue and Taxation Code is amended to read:

19268. The Franchise Tax Board shall transmit to the Director of Employment Development claims for credit or refund allowed pursuant to Section 17061 of this code and subdivision (a) of Section

1176.5 of the Unemployment Insurance Code.

SEC. 375. Section 19502.5 of the Revenue and Taxation Code is amended to read:

19502.5. (a) A claimant shall not lose his residence for purposes of this part if he or she is temporarily confined to a hospital or medical institution for medical reasons where the homestead was the principal place of residence of the claimant immediately prior to such confinement.

(b) For purposes of this section, "medical institution" means a facility operated by, or licensed by, the United States, one of the several states, a political subdivision of a state, the State Department of Health Services, or exempt from such licensure pursuant to subdivision (a) of Section 1270 of the Health and Safety Code.

SEC. 376. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 24349. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization

deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1971, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which the State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349 which is identifiable as a treatment facility and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1970, or

(ii) Acquired after December 31, 1970, if the original use of the property commences with the taxpayer and commences after such date, and

(B) Is placed in service by the taxpayer before January 1, 1976. In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1970.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall

not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

SEC. 377. Section 133.5 is added to the Unemployment Insurance Code, to read:

133.5. "Department of Benefit Payments' or "State Department of Benefit Payments" shall be construed to refer to and mean the Employment Development Department.

SEC. 378. Section 134.1 is added to the Unemployment Insurance Code, to read:

134.1. "Director of Benefit Payments" shall be construed to refer to and mean Director of Employment Development.

SEC. 379. The heading of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1 of the Unemployment Insurance Code is amended to read:

Article 1. Employment Development Department

SEC. 380. Section 301 of the Unemployment Insurance Code is amended to read:

301. There is in the Health and Welfare Agency the Employment Development Department which is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Benefit Payments or the Health and Welfare Agency with respect to job creation activities. The Employment Development Department shall be administered by an executive officer known as the Director of Employment Development who is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the Director of Benefit Payments with respect to the following functions:

(a) Job creation activities.

(b) Making manual computations and making or denying recomputations of the amount and duration of benefits.

(c) Determination of contribution rates and the administration and collection of contributions, penalties and interest, including but not limited to filing and releasing liens.

(d) Establishment, administration, and transfer of reserve accounts.

(e) Making assessments and the administration of credits and refunds.

(f) Approving elections for coverage or for financing unemployment and disability insurance coverage.

SEC. 381. Section 301.6 of the Unemployment Insurance Code is

amended to read:

301.6. The Employment Development Department shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, appropriations, land, and other property real or personal held for the benefit or use of the State Department of Benefit Payments in the performance of the duties, powers, purposes, responsibilities, and jurisdiction that are vested in the Employment Development Department by Section 301.

SEC. 382. Section 301.7 of the Unemployment Insurance Code is amended to read:

301.7. All officers and employees of the State Department of Benefit Payments who, on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Employment Development Department by Section 301 shall be transferred to the Employment Development Department. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Employment Development Department pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 382.5. Section 303 of the Unemployment Insurance Code is amended to read:

303. There shall be five deputy directors in the Employment Development Department who shall be appointed by the Governor subject to the approval of the Senate and shall hold office at the pleasure of the Governor. The salary of the deputy directors shall be fixed in accordance with law.

SEC. 383. Section 303.5 of the Unemployment Insurance Code is repealed.

SEC. 384. Section 305.1 of the Unemployment Insurance Code is repealed.

SEC. 385. Section 305.6 of the Unemployment Insurance Code is amended to read:

305.6. All regulations heretofore adopted by the Director of Benefit Payments pursuant to this code shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Employment Development with respect to his functions under this code.

SEC. 386. Section 306.1 of the Unemployment Insurance Code is repealed.

SEC. 387. Section 310.1 of the Unemployment Insurance Code is repealed.

SEC. 388. Section 311.3 of the Unemployment Insurance Code is repealed.

SEC. 389. Section 311.5 of the Unemployment Insurance Code is repealed.

SEC. 390. Section 312.1 of the Unemployment Insurance Code is

repealed.

SEC. 391. Section 314 of the Unemployment Insurance Code is repealed.

SEC. 392. Section 319 of the Unemployment Insurance Code is repealed.

SEC. 393. Section 320.1 of the Unemployment Insurance Code is repealed.

SEC. 394. Section 321.1 of the Unemployment Insurance Code is repealed.

SEC. 395. Section 322.1 of the Unemployment Insurance Code is repealed.

SEC. 396. Section 409 of the Unemployment Insurance Code is amended to read:

409. The chairman shall assign cases before the board to any three members thereof for consideration and decision. Assignments by the chairman of members to such cases shall be rotated on such a basis so as to equalize the workload of the members but with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continuous composition of members. Except as otherwise provided, a decision by two of the members assigned the case shall be the decision of the appeals board. A case shall be considered and decided by the appeals board acting as a whole at the request of any member of the appeals board.

The appeals board shall meet as a whole at such times as the chairman may direct to consider and pass on such matters as the chairman may bring before it, and to consider and decide cases which present issues of first impression or which will enable the appeals board to achieve uniformity of decisions by the respective members.

The appeals board, acting as a whole, may designate certain of its decisions as precedents. The appeals board, acting as a whole, may on its own motion reconsider a previously issued decision solely to determine whether or not such decision shall be designated as a precedent decision. Decisions of the appeals board acting as a whole shall be by a majority vote of its members. The director and the appeals board referees shall be controlled by such precedents except as modified by judicial review.

The decisions of the appeals board shall contain a statement of the facts upon which the decision is based, and a statement of the decision itself and the reasons therefor. If the appeals board issues decisions other than those designated as precedent decisions, anything incorporated in such decisions shall be physically attached to and be made a part of such decisions. All decisions designated as precedents shall be published in such manner as to make them available for public use. The appeals board may make such reasonable charge for publications as it deems necessary to defray the cost of their publication and distribution.

SEC. 397. Section 409.1 of the Unemployment Insurance Code is amended to read:

409.1. If a final judgment of a court of competent jurisdiction reverses or declares invalid a precedent decision of the appeals board issued under Section 409 or this section, the appeals board, acting as a whole, shall promptly modify the precedent decision to conform in all respects to the judgment of the court. The modified precedent decision shall supersede the prior precedent decision for all purposes. The appeals board shall promptly notify the director, the referees of the appeals board, and all other subscribers to the precedent decisions, of the modified precedent decision.

SEC. 398. Section 410 of the Unemployment Insurance Code is amended to read:

410. A decision of the appeals board is final, except for such action as may be taken by a judicial tribunal as permitted or required by law.

A decision of the appeals board is binding on the director with respect to the parties involved in the particular appeal.

The director shall have the right to seek judicial review from an appeals board decision to which such director was a party irrespective of whether or not he appeared or participated in the appeal to the referee or to the appeals board.

Notwithstanding any other provision of law, the right of the director, or of any other party except as provided by Sections 1035, 1055, 1182, and 5308, to seek judicial review from an appeals board decision shall be exercised not later than six months after the date of the decision of the appeals board or the date on which the decision is designated as a precedent decision, whichever is later.

The appeals board shall attach to all of its decisions where a request for review may be taken, an explanation of the party's right to seek such review.

SEC. 399. Section 412 of the Unemployment Insurance Code is amended to read:

412. (a) The appeals board acting as a whole may, by notice mailed to the director and the parties prior to the mailing of a referee's decision on an appeal or petition under this division pending before any referee, on its own motion either:

(1) Transfer the proceedings to another referee; or

(2) Remove the proceedings to itself for review and decision.

(b) If the appeals board removes any proceedings to itself for review and decision pursuant to this section, the appeals board may order the taking of additional evidence and may affirm, reverse, modify, or set aside any findings or action of the department from which the appeal or petition to the referee was taken in the proceedings. The appeals board shall promptly notify the department and the parties to the proceedings of its order or decision.

SEC. 400. Section 605.5 of the Unemployment Insurance Code is amended to read:

605.5. (a) "Employment" includes all services performed by blind individuals and otherwise handicapped individuals, who do not

hold civil service or permanent tenure positions, in connection with their employment by the State of California for work in the California Industries for the Blind.

(b) For the purposes of this division, the Department of Rehabilitation shall be considered the employer of persons performing the services described in subdivision (a) of this section.

(c) The employer and worker contributions, penalties and interest required of the state for services performed under this section shall be paid from the California Industries for the Blind Manufacturing Fund. The State Controller shall determine quarterly the amount of employer and withheld worker contributions, penalties and interest required and shall issue a warrant for such amount which shall be transmitted to the director by the Department of Rehabilitation pursuant to this division.

(d) The director may require from the State Controller and the Department of Rehabilitation such employment, financial, statistical or other information and reports as may be deemed necessary by the director to carry out his duties under this section. Such information and reports shall be filed with the director at the time and in the manner prescribed by the director.

(e) The director may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the state agency.

(f) The State Controller and the Department of Rehabilitation shall keep such work records as may be prescribed by the director for the proper administration of this section.

(g) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply.

SEC. 401. Section 701.5 of the Unemployment Insurance Code is repealed.

SEC. 402. Section 801.5 of the Unemployment Insurance Code is repealed.

SEC. 403. Section 821.3 of the Unemployment Insurance Code is amended to read:

821.3. As used in this article, "administrator" means the Director of Employment Development.

SEC. 404. Section 907 of the Unemployment Insurance Code is repealed.

SEC. 405. Section 1087 of the Unemployment Insurance Code is amended to read:

1087. Any officer or employee of the Sales and Use Tax Division of the Board of Equalization who is authorized to accept an application for a seller's permit under Section 6066 of the Revenue and Taxation Code or authorized to register a retailer under Section 6226 of the Revenue and Taxation Code is a duly authorized agent of the Employment Development Department for purposes of accepting registration of employers as required in this part. Any officer or employee of the Board of Equalization who is authorized to accept an application for a license to operate commercial motor

vehicles under Section 9701 of the Revenue and Taxation Code or authorized to issue a license under Section 9703 of the Revenue and Taxation Code is a duly authorized agent of the Employment Development Department for purposes of accepting registration of employers as required in this part.

The department shall reimburse the Board of Equalization for any additional costs incurred by reason of services by any of its officers or employees to the department pursuant to this section.

SEC. 406. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his authorized agent with his existing or prospective right to benefits.

(c) To furnish an employer or his authorized agent with information to enable him to fully discharge his obligations or safeguard his rights under this division.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his representatives or the State Director of Health Services or his representatives subject to federal law to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with and limited to the administration of public social services.

(f) To enable the director or his representative to carry out his responsibilities under this code.

SEC. 406.5. Section 1258.5 of the Unemployment Insurance Code is amended to read:

1258.5. "Suitable employment" does not include employment with an employer who does not:

(a) Possess an appropriate state license to engage in his business, trade, or profession; or

(b) Withhold or hold in trust the employee contributions required by Part 2 (commencing with Section 2601) of this division for unemployment compensation disability benefits and does not transmit all such employee contributions to the department for the Disability Fund as required by Section 986; or

(c) Carry either workmen's compensation insurance or possess a certificate of self-insurance as required by Division 4 (commencing with Section 3201) of the Labor Code.

SEC. 406.6. Section 1259 of the Unemployment Insurance Code is amended to read:

1259. Notwithstanding any other provisions of this division, no work or employment shall be deemed suitable and benefits shall not be denied to any otherwise eligible and qualified individual for refusing new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(c) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If the offer of employment is from an employer who does not possess an appropriate state license to engage in his business, trade, or profession if required by state law.

(e) If the offer of employment is from an employer who does not carry either workmen's compensation insurance or possess a certificate of self-insurance as required by Division 4 (commencing with Section 3201) of the Labor Code.

(f) If the offer of employment is from an employer who does not withhold or hold in trust the employee contributions required by Part 2 (commencing with Section 2601) of this division for unemployment compensation disability benefits and does not transmit all such employee contributions to the department for the Disability Fund as required by Section 986.

SEC. 407. Section 1282 of the Unemployment Insurance Code is amended to read:

1282. If the remuneration of an individual is not based upon a fixed period or duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to unemployment compensation benefits shall be determined pursuant to authorized regulations. The regulations shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his wages at regular intervals.

SEC. 408. Section 1330 of the Unemployment Insurance Code is amended to read:

1330. The claimant and any base period employer to whom a notice of computation or recomputation is given may, within 20 days after the mailing or personal service of such notice, protest the accuracy of the computation or recomputation. The 20-day period may be extended for good cause. The department shall consider any such protest and shall promptly notify the claimant and the base period employer submitting the protest of the recomputation or denial of recomputation. An appeal may be taken from a notice of denial of recomputation in the manner prescribed in Section 1328. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 409. Section 1332 of the Unemployment Insurance Code is amended to read:

1332. (a) The department may, within 15 days after mailing or

personal service of the notice of any determination, for good cause reconsider the determination. The department may, if no appeal has been taken from any determination which finds that a claimant is ineligible or disqualified, for good cause also reconsider the determination during the benefit year or extended duration period or extended benefit period to which the determination relates. The department shall give notice of any reconsidered determination to the claimant and any employer or employing unit which received notice under Sections 1328 and 1331 and the claimant or employer may appeal therefrom in the manner prescribed in Section 1328.

(b) The department may for good cause reconsider any computation or recomputation provided for in this article during the benefit year or extended duration period to which the notice of computation or recomputation relates, except that no recomputation may be considered with respect to any issue considered or under consideration in an appeal taken from a denial of recomputation. The department shall promptly notify the claimant and each of the claimant's base period employers of the recomputation. The claimant and any base period employer may protest the accuracy of the recomputation as prescribed in Section 1330.

SEC. 410. Section 1332.5 of the Unemployment Insurance Code is amended to read:

1332.5. Notwithstanding any other provision of this division any provision that prescribes time limits within which the department may reconsider any determination, ruling, or computation or any provision that otherwise restricts or prevents such reconsideration, shall not apply in any case of fraud, misrepresentation or willful nondisclosure.

SEC. 411. Section 1338 of the Unemployment Insurance Code is amended to read:

1338. If the Appeals Board issues a decision allowing benefits the benefits shall be paid regardless of any further action taken by the director, the Appeals Board, or any other administrative agency, and regardless of any appeal or mandamus, or other proceeding in the courts. If the decision of the Appeals Board is finally reversed or set aside, no employer's account shall be charged with the benefits paid pursuant to this section.

SEC. 412. Section 1381 of the Unemployment Insurance Code is amended to read:

1381. The director shall enforce collection of any judgment obtained in a civil action by the director under subdivision (a) of Section 1379. Amounts collected under this section shall be deposited in the fund from which the overpayment was made, except that the amounts collected to offset the costs of collections shall be deposited in the Unemployment Administration Fund.

SEC. 413. Section 1501 of the Unemployment Insurance Code is amended to read:

1501. The director may in accordance with law deposit for the purpose of clearance by the director all money collected under this

division, in a state or national bank in this state. After clearance the money so deposited shall be deposited in the State Treasury to the credit of the proper fund as prescribed in this division.

SEC. 414. Section 1536 of the Unemployment Insurance Code is amended to read:

1536. Any amounts determined by the director or his authorized representatives to be payable to employing units as refunds of contributions erroneously paid which are unclaimed at the end of three years from such determination shall be included in the revenue to the Unemployment Fund or in the case of interest or penalties, to the Contingent Fund. The employing unit or person entitled to such payment shall not thereafter maintain any claim, action or proceeding with respect to such amounts.

SEC. 414.5. Section 1558.5 of the Unemployment Insurance Code is amended to read:

1558.5. Money in the Unemployment Administration Fund may be expended for any cost of administration under this code in accordance with a plan or system of accrual cost accounting approved by the United States Department of Labor under which expenditures from the Unemployment Administration Fund are subsequently reimbursed from another fund or funds to which the actual costs of such expenditures are chargeable.

SEC. 415. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Department of Employment Development Contingent Fund. The Department of Employment Development Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division.

(b) All penalties collected under this division, except as provided in Sections 1958 and 3654.2.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to the provisions of the Revenue and Taxation Code relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

SEC. 416. Section 1585.5 of the Unemployment Insurance Code is amended to read:

1585.5. The director shall estimate the amount of penalties and interest collected by the department pursuant to the provisions of the Revenue and Taxation Code relating to the withholding of personal income tax and shall transfer such amount to the Personal Income Tax Fund on a quarterly basis.

SEC. 417. Section 1586 of the Unemployment Insurance Code is amended to read:

1586. All amounts in the Contingent Fund are hereby continuously appropriated without regard to fiscal years for refund of amounts collected after January 29, 1945, and erroneously deposited therein, for interest payable under this division on refunds and judgments and for the administration of the department.

SEC. 418. Section 1587 of the Unemployment Insurance Code is amended to read:

1587. No expenditure for administration shall be made from the Contingent Fund except under an authorization made by the Director of Finance in the manner prescribed in Section 11006 of the Government Code. No such authorization shall be made as a substitution for a grant of federal funds, or for any portion thereof, which in the absence of the authorization would be available to the department.

SEC. 419. Section 1589 of the Unemployment Insurance Code is amended to read:

1589. In lieu of filing claims for refund and interest payable on refunds against each of the funds from which an amount has been determined to be due under this division, the director may file a single claim with the State Controller showing the amount payable from each fund for payment from the Contingent Fund, and the Controller shall thereupon draw his warrant on the Contingent Fund and transfer the amounts certified by the director to be due from the Clearing Account-Unemployment Fund, the Unemployment Compensation Disability Fund, and the Personal Income Tax Fund, to the Contingent Fund.

SEC. 420. Section 1601 of the Unemployment Insurance Code is amended to read:

1601. When money other than Disability Fund money is used in the purchase of property and in the construction of buildings, and appurtenant facilities, or in the purchase of property, or in the construction of buildings, and appurtenant facilities, for the use of the department, or for the use of the department and other state agencies, the director may do any and all things necessary to protect the property including purchasing insurance against the loss of or damage to the property or the loss of use and occupancy of the property. Any transaction entered into by the director under this section shall be subject to the approval of the Department of General Services.

SEC. 421. Section 1701.5 of the Unemployment Insurance Code is repealed.

SEC. 422. Section 2110 of the Unemployment Insurance Code is amended to read:

2110. Any employing unit, including any individual member of a partnership employing unit, any officer of a corporate or association employing unit, and the general manager, or any other person having charge of the affairs of a corporate or association employing unit, which knowingly withholds the deductions required by this division from remuneration paid to its workers, and willfully fails or

is willfully financially unable to pay such deductions to the department on the date on which they become delinquent is guilty of a misdemeanor.

SEC. 423. Section 2110.3 of the Unemployment Insurance Code is amended to read:

2110.3. Any employing unit, including any individual member of a partnership employing unit, any officer of a corporate or association employing unit, and the general manager, or any other person having charge of the affairs of a corporate or association employing unit, which knowingly undertakes or agrees to pay without deduction from remuneration paid to its workers the amount of any contributions to the Disability Fund required of such workers under this division and which willfully fails or is willfully financially unable to pay such amount to the department on the date on which the contributions become delinquent is guilty of a misdemeanor.

SEC. 424. Section 2111 of the Unemployment Insurance Code is amended to read:

2111. Except as otherwise provided in Section 1094 information obtained in the course of administration of this division is confidential and shall not be published or open to public inspection in any manner. Any director or deputy director or employee of the department, any member or employee of the Appeals Board, or any member or employee of the Employment Services Board who violates this section is guilty of a misdemeanor.

SEC. 425. Section 2602 of the Unemployment Insurance Code is amended to read:

2602. (a) Except as otherwise provided, the provisions and definitions of Part 1 (commencing with Section 100) of this division apply to this part. In case of any conflict between the provisions of Part 1 and the provisions of this part, the provisions of this part shall prevail with respect to unemployment compensation disability benefits, and the provisions of Part 1 shall prevail with respect to unemployment compensation benefits.

(b) The provisions of Article 5 (commencing with Section 1401) of Chapter 5 of Part 1, and the provisions of Chapter 6 (commencing with Section 1501) of Part 1, of this division do not apply to this part.

(c) Sections 312, 318, 1251, 1253, 1254, 1255, 1262, 1279, 1326 to 1333, inclusive, 1339, 1340, 1375 to 1378, inclusive, and 1380 do not apply to this part.

SEC. 426. Section 2657 of the Unemployment Insurance Code is amended to read:

2657. If the remuneration of an individual is not based upon a fixed period or duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to disability benefits shall be determined pursuant to authorized regulations. The regulations shall, so far as possible, secure results

reasonably similar to those which would prevail if the individual were paid his wages at regular intervals.

SEC. 427. Section 2707.2 of the Unemployment Insurance Code is amended to read:

2707.2. The department shall consider the facts submitted by the employer pursuant to Section 2707.1 and make a determination as to the eligibility of the claimant for benefits. The department shall promptly notify the claimant of the determination and the reasons therefor. The claimant may appeal therefrom to a referee within 20 days from mailing or personal service of the notice of determination. The 20-day period may be extended for good cause. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 428. Section 2707.4 of the Unemployment Insurance Code is amended to read:

2707.4. The claimant may, within 20 days after the mailing or personal service of the notice of computation or recomputation, protest the accuracy of the computation or recomputation. The 20-day period may be extended for good cause. The department shall consider any such protest and shall promptly notify the claimant of the recomputation or denial of recomputation. The claimant may appeal from a notice of denial of recomputation in the manner prescribed in Section 2707.2. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 429. Section 2707.5 of the Unemployment Insurance Code is amended to read:

2707.5. (a) The department may for good cause reconsider any determination provided for in this article prior to the filing of an appeal therefrom. The department shall promptly notify the claimant of any reconsidered determination, and the claimant may appeal therefrom in the manner prescribed in Section 2707.2. The director shall be an interested party to any appeal.

(b) The department may for good cause reconsider any computation or recomputation provided for in this article within one year from the beginning date of the disability benefit period to which the notice of computation or recomputation relates, except that no recomputation may be considered with respect to any issue considered or under consideration in an appeal taken from a denial of recomputation. The department shall promptly notify the claimant of the recomputation. The claimant may protest the accuracy of the recomputation as prescribed in Section 2707.4.

SEC. 430. Section 2714 of the Unemployment Insurance Code is amended to read:

2714. All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the

proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his disability. Such records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services. The department may reveal its records to the Director of Social Services or his representatives, and may reveal the identity only of the claimant to the Department of Rehabilitation, but such information shall remain confidential and shall not be disclosed except as provided herein.

SEC. 431. Section 2742 of the Unemployment Insurance Code is amended to read:

2742. The director shall enforce collection of any judgment obtained in a civil action by him under subdivision (a) of Section 2739. Amounts collected under this section shall be deposited in the fund from which the overpayment was made.

SEC. 432. Section 2902 of the Unemployment Insurance Code is amended to read:

2902. Notwithstanding any other provision of this division, any individual who adheres to the faith or teaching of any bona fide religious sect, denomination, or organization, and in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion, upon filing with the department and with each of his employers a statement declaring such adherence and dependence and disclaiming any benefits under this part, shall be exempt from contributions under this division in respect to any wages paid to him by any such employer in the calendar quarter in which such statement is filed, in all subsequent calendar quarters while such statement is in effect, and, if the individual so elects, in any prior calendar quarter for which wages are reported to the department on or after the date such statement is filed. Such individual shall be ineligible to receive benefits under this part based upon such wages.

SEC. 433. Section 3009 of the Unemployment Insurance Code is amended to read:

3009. Refunds, credits, or judgments, and interest thereon, payable for contributions erroneously collected under Sections 984 and 985 subsequent to May 21, 1946, may be paid from the Disability Fund on warrants issued by the Controller under the direction of the director.

SEC. 434. Section 3010 of the Unemployment Insurance Code is amended to read:

3010. Any amounts determined by the director or his authorized representatives to be payable to employing units or workers as refunds of amounts deposited in the various accounts of the

Disability Fund which are unclaimed at the end of three years from such determination, shall be included in the revenue to the account in the Disability Fund in which they were deposited. The employing unit or person entitled to such payment shall not thereafter maintain any claim, action or proceeding with respect to such amounts.

SEC. 435. Section 3012 of the Unemployment Insurance Code is amended to read:

3012. (a) All money in the Disability Fund is continuously appropriated without regard to fiscal years for the purpose of providing disability benefits pursuant to this part, including the payment of refunds, credits, or judgments, and interest thereon, the payment of disability benefits to all eligible persons not covered exclusively by an approved voluntary plan, and the payment of the expenses of administration of this part by the department and the Franchise Tax Board. "Eligible persons" as used in this section, means those individuals who are covered by the Disability Fund at the time their period of disability commences, or whose employment has terminated or who are in noncovered employment at the time their period of disability commences, and who are otherwise eligible for benefits under this part.

(b) For the purpose of keeping a record of the payments to and the disbursements from the Disability Fund with respect to the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences, the director shall maintain the Unemployed Disabled Account in the Disability Fund. This account shall be credited with the amount of the payments received by the Disability Fund under subdivision (b) of Section 3252 of each calendar year. This account shall also be credited with an amount equal to twelve one-hundredths of 1 percent (0.12%) of the taxable wages paid to employees covered by the Disability Fund for each calendar year. This account shall be charged each calendar year with disbursements from the Disability Fund for the payment of benefits and the additional administrative costs of the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences.

SEC. 436. Section 3013 of the Unemployment Insurance Code is amended to read:

3013. A sum to be determined by the Director of Finance, of amounts deposited in the Disability Fund, may be used for the necessary expenses of administration of this part in addition to any other fund or money available for such purpose. Such sum shall be available to the department for the payment of the expenses of administration of this part by the department and the Franchise Tax Board only to the extent that money received from the United States or any of its agencies is not available for such purposes.

SEC. 437. Section 3014 of the Unemployment Insurance Code is amended to read:

3014. Withdrawals by the director from the Disability Fund for

the payment of refunds, credits, or judgments, and disability benefits are exempted from the operation of Section 925.6 of the Government Code.

SEC. 438. Section 3125 of the Unemployment Insurance Code is amended to read:

3125. The director may from time to time, with approval of the Department of Finance, invest the money in the Disability Fund for the construction and equipment of a building or buildings and appurtenant facilities for the use of the department as a central office in Sacramento. He may also invest such funds for the acquisition of real property, pursuant to the Property Acquisition Law, to be used as a parking area for the central office and for the development and construction of the parking area, together with appurtenant facilities and equipment not to exceed six hundred thousand dollars ($600,000). Such parking area shall be amortized through rental payments as fixed by the Department of General Services. Such rental payments before and after amortization shall approximate prevailing rates for parking in the immediate area. Costs and expenses necessarily incurred in connection with such investments, including but not limited to the costs of preliminary plans, services, and negotiations, shall be a proper charge against that portion of the Disability Fund available by law for the payment of benefits and shall constitute a part of the investment. The aggregate amount which may be invested under this section shall not exceed nine million five hundred thousand dollars ($9,500,000) except that when necessary because of increased building costs the aggregate amount may be increased with approval of the director and the State Public Works Board by an additional amount not to exceed nine hundred fifty thousand dollars ($950,000).

Of the amount herein authorized to be invested, upon request of the director, there shall be transferred by the Controller five hundred thousand dollars ($500,000) to the Department of Employment Development Contingent Fund in repayment of the amount authorized to be expended from that fund for preliminary plans and specifications under Chapter 34 of the Statutes of 1950 (Third Extraordinary Session).

SEC. 439. Section 3125.5 of the Unemployment Insurance Code is amended to read:

3125.5. The Department of Finance may from time to time, with the approval of the director, invest money in the Disability Fund for the acquisition of real property, pursuant to the Property Acquisition Law, and the construction and equipment of a building or buildings and appurtenant facilities thereon after approval of preliminary plans under the procedure provided by Section 16 of the Budget Act of 1954, for the use of the department as a branch office in Los Angeles. The aggregate amount which may be invested under this section shall not exceed two million seven hundred fifty thousand dollars ($2,750,000).

SEC. 440. Section 3126 of the Unemployment Insurance Code is

amended to read:

3126. Any buildings or facilities acquired pursuant to this article shall be primarily for the occupancy of the department and, until such time as the investment is repaid, shall be subject to the administration and supervision of the department in accordance with rules and regulations which shall be established by the department with the approval of the Department of General Services. Such regulations shall be comparable to those for the administration and supervision of other state-owned buildings.

SEC. 441. Section 3128 of the Unemployment Insurance Code is amended to read:

3128. For all space allocated by the director to the agencies and services comprising the department, or otherwise leased or let by the director pursuant to this article, the director shall charge a rental, to be approved by the Department of General Services. All such rentals shall be deposited in the Unemployment Administration Fund. The portion of the rental which pertains to the amortization of the investment, as determined by the department, shall be transferred to the Disability Fund as repayment of any money invested under the provisions of this article, together with interest to be compounded annually at the close of business on December 31st of each year at a reasonable rate to be determined by the director with approval of the Department of Finance. The remainder of the rental shall be left in the Unemployment Administration Fund to be used for building maintenance, repairs and alterations, utilities, and other necessary operating expenses.

SEC. 442. Section 3129 of the Unemployment Insurance Code is amended to read:

3129. When the money invested under the provisions of this article for the providing and equipment of buildings or facilities has been repaid to the Disability Fund together with interest, the jurisdiction and control of any such buildings or facilities, and the operation and management thereof, shall vest in the Department of General Services, but the department with respect to its respective functions under this code shall have priority to occupy any space within such buildings or facilities at rental rates not exceeding the cost of providing maintenance and other services.

SEC. 443. Section 3252 of the Unemployment Insurance Code is amended to read:

3252. (a) Except as provided by subdivision (b) of this section, neither an employee nor his employer shall be liable for the worker contributions required under this division with respect to wages paid by the employer while the employee is covered by an approved voluntary plan.

(b) Each voluntary plan shall pay to the department for the Disability Fund twelve one-hundreths of one percent (0.12%) of the taxable wages paid to employees covered by the voluntary plan for disability benefit coverage for each calendar year. Such payments shall not constitute a part of the voluntary plan premium for

purposes of any tax under any provision of law. After the end of each calendar quarter the director shall assess the amounts required by this section against the employer, subject to the provisions of Section 3259. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to assessments provided by this section, except that interest shall not accrue until 30 days after notice of assessment. Amounts so collected shall be deposited in the Disability Fund to the credit of the unemployed disabled account.

SEC. 444. Section 3260 of the Unemployment Insurance Code is amended to read:

3260. An employer may, but need not, assume all or part of the cost of the plan, and may deduct from the wages of an employee covered by the plan, for the purpose of providing the disability benefits specified in this part, an amount not in excess of that which would be required by Sections 984 and 985 if the employee were not covered by the plan. Any such deductions from the wages of an employee remaining in the possession of the employer upon termination of the plan, as a result of plan contributions being in excess of plan costs, which are not disposed of in conformity with authorized regulations of the director, shall be remitted to the department and deposited in the Disability Fund. If an employer fails to remit any such deductions to the Disability Fund, the director shall assess the amount thereof against the employer. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to assessments provided by this section, except that interest shall not accrue until 30 days after notice of assessment. With respect to individuals covered by a voluntary plan on January 1st of a calendar year for which the limitation on taxable wages under Section 985 is increased or the tax rate under Section 984 is increased, the amount of the deduction on or after that date may be increased to apply to not more than the maximum limitation on taxable wages or to not more than the maximum tax rate without any further consent of the individual or approval of the director, but only if such increase in the amount of the deduction is made immediately effective as of January 1st of that particular year.

SEC. 445. Section 3265 of the Unemployment Insurance Code is amended to read:

3265. (a) If, on appeal, it is decided that an employee is entitled to receive disability benefits under an approved voluntary plan and the employer or insurer fails to pay the same within 15 days after notice of a decision by a referee or the appeals board, the director shall pay such benefits and shall assess the amount thereof against the employer or the insurer, and the provisions of Article 8

(commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

(b) If an approved voluntary plan is not terminated because of the enactment of any law increasing the benefit amounts provided by Sections 2653, 2655, and 2801 and the employer or insurer fails to pay such increase under the plan, the director shall pay such benefits to an employee, if otherwise eligible, and shall assess the amount thereof against the employer or the insurer and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

SEC. 446. Section 3266 of the Unemployment Insurance Code is amended to read:

3266. The director shall in accordance with his authorized regulations determine the portion of the aggregate amount of refunds and credits to employees made under Section 1176 during any calendar year which is applicable to voluntary plans for which deductions were made under Section 3260, such determination to be based upon the relation during the preceding calendar year of the amount of wages subject to contributions to the Disability Fund to the amount of wages exempt from contributions to the Disability Fund under Section 3252. The director shall in accordance with his authorized regulations prorate such aggregate amount among the applicable voluntary plans and shall assess and recover from the employer or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of amounts under this section. Amounts so collected shall be deposited in the Disability Fund.

SEC. 447. Section 3267.1 of the Unemployment Insurance Code is repealed.

SEC. 448. Section 3268.1 of the Unemployment Insurance Code is repealed.

SEC. 449. Section 3269 of the Unemployment Insurance Code is amended to read:

3269. The director shall in accordance with his authorized regulations, determine each fiscal year the total amount expended for added administrative work arising out of voluntary plans. The total amount so determined shall be prorated among the approved

voluntary plans in effect during that year on the basis of the amount of wages paid in voluntary plan covered employment by employers to individuals participating in such plans. The director shall make assessments of amounts so prorated against the employers responsible for benefits under such approved plans. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the assessments provided by this section, except that interest shall not accrue until 30 days after notice of assessment. The amounts collected under this section shall be deposited in the Disability Fund and shall be added to the amounts otherwise made available for administration of this part.

SEC. 450. Section 3654.1 of the Unemployment Insurance Code is amended to read:

3654.1. (a) For the purpose of determining whether an unemployed individual meets the eligibility requirements of subdivision (e) of Section 3552, the director may pursuant to his authorized regulations require that wage and employment information shall be submitted to the director, within 10 days after the mailing of a request by the director, by any or all of the following:

(1) Each employing unit subsequent to the end of the base period of the new claim and prior to the effective date of a valid primary claim for extended duration benefits.

(2) Each employing unit in the four quarters immediately preceding the beginning of the base period of the new claim.

(b) The 10-day period may be extended for good cause.

SEC. 451. Section 3654.2 of the Unemployment Insurance Code is amended to read:

3654.2. Any employing unit who fails to furnish wage information requested by the director pursuant to Section 3654.1 shall be subject to a penalty of ten dollars ($10) for each such report not submitted. The director shall assess the penalty and the provisions of Part 1 (commencing with Section 100) of this division with respect to assessments, refunds, and collections shall apply. Penalties collected under this section shall be deposited in the Unemployment Fund.

SEC. 452. Section 3654.3 of the Unemployment Insurance Code is amended to read:

3654.3. If any employing unit fails to respond to a request for wage information within the period prescribed by Section 3654.1, the director shall make a determination based upon available information.

SEC. 453. Section 3654.4 of the Unemployment Insurance Code, as amended by Chapter 979 of the Statutes of 1975, is amended to read:

3654.4. The department shall consider the facts submitted by an employing unit pursuant to Section 3654.1 and make a determination as to the exhaustee's eligibility for extended duration benefits under

subdivision (e) of Section 3552. The department shall promptly notify the exhaustee and any employing unit who prior to the determination has submitted any facts pursuant to Section 3654.1 of the determination and the reasons therefor. The exhaustee and any such employing unit may appeal therefrom to a referee within 20 days from mailing or personal service of notice of the determination. The 20-day period may be extended for good cause. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 454. Section 3656 of the Unemployment Insurance Code, as amended by Chapter 979 of the Statutes of 1975, is amended to read:

3656. Upon the filing of a valid primary claim by an exhaustee, the department shall promptly make an extended duration award computation which shall set forth the maximum amount of extended duration benefits potentially payable during the extended duration period, the weekly benefit amount, and the expiration date of the extended duration period. The department shall promptly notify the exhaustee of the computation. He may, within 20 days after the mailing or personal service of the notice of computation, protest its accuracy. The 20-day period may be extended for good cause. The department shall consider any such protest and shall promptly notify the exhaustee of the recomputation or denial of recomputation. An appeal may be taken from a notice of denial of recomputation in the manner prescribed in Section 3655. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 455. Section 4656 of the Unemployment Insurance Code is amended to read:

4656. Upon the filing of a valid application by an individual, the department shall promptly make a federal-state extended benefit award computation which shall set forth the maximum amount of federal-state extended benefits potentially payable during the extended benefit period, and the weekly benefit amount. The department shall promptly notify the individual of the computation. He may, within 20 days after the mailing or personal service of the notice of computation or recomputation, protest its accuracy. The 20-day period may be extended for good cause. The department shall consider any such protest and shall promptly notify the individual of the recomputation or denial of recomputation. An appeal may be taken from a notice of denial of recomputation in the manner provided in Section 4655. The director shall be an interested party to any appeal.

"Good cause," as used in this section, shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect.

SEC. 455.5. Section 5007.5 of the Unemployment Insurance Code is amended to read:

5007.5. In addition to the standards prescribed by Section 5007, in

determining "appropriate work" the department shall apply the following criteria:

(a) Appropriate work may be temporary, permanent, full-time, part-time, or seasonal work, if such work meets the other work standards of this section.

(b) When an income disregard is available, the wage shall meet or exceed the federal or state mininum wage law, whichever is applicable, or if such laws are not applicable, the wage shall not be substantially less favorable than the wage normally paid for similar work in that labor market, but in no event shall it be less than three-fourths of the minimum wage rate set forth in Section 6(a)(1) of the Fair Labor Standards Act.

(c) When, as a result of becoming employed, no income disregard is available to the individual, the wage, less mandatory payroll deductions and a reasonable allowance for necessary employment related expenses, shall provide an income equal to or exceeding the family's AFDC cash benefit. The wage shall in no case be less than that required by any applicable minimum wage law.

(d) The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation.

(e) No individual shall be required to accept employment if any of the following exist:

(1) The position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(2) The individual would be required to work for an employer contrary to the conditions of his or her existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which he or she has membership may be deemed appropriate.

(3) The job offered would interrupt a program in progress under an approved employability plan leading to self-support or to the resumption of his or her regular job within a short period of time. This does not, however, preclude temporary employment during the interval prior to his or her reemployment in his or her regular job.

(4) The employer does not possess an appropriate state license to engage in his or her business, trade, or profession.

(5) The employer does not withhold or hold in trust the employee contributions required by Part 2 (commencing with Section 2601) of Division 1 for unemployment compensation disability benefits and does not transmit all such employee contributions to the department for the Disability Fund as required by Section 986.

(6) The employer does not carry either workers' compensation insurance or possess a certificate of self-insurance as required by Division 4 (commencing with Section 3201) of the Labor Code.

SEC. 456. Section 5202 of the Unemployment Insurance Code is amended to read:

5202. The department, in cooperation with the State Department of Social Services, shall report to each regular session of the Legislature, not later than the fifth calendar day, on the

effectiveness of the program established under this division. The department's reports shall detail any economic and other advantages to the people of California which have resulted from the program, including the effect upon state costs, increased productivity and improved social performance by persons under the program, taxes paid by such persons, and the payment of wages as opposed to cash grants.

SEC. 457. Section 5309 of the Unemployment Insurance Code is amended to read:

5309. (a) The hearing officer may rule any of the following:

(1) That the individual has failed to appear for appraisal without good cause or has failed or refused to participate without good cause, and that appropriate deregistration shall be initiated.

(2) That good cause has been shown for failure or refusal to participate, and the individual shall be retained in the program.

(3) That the request for a hearing is dismissed because of any of the following:

(A) It was filed untimely without good cause.

(B) It has been withdrawn in writing.

(C) The individual failed to appear at the hearing without good cause.

(D) Reasonable cause exists to believe that the request has been abandoned or that repeated requests for rescheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing, in which case the State Department of Social Services may initiate necessary action to impose appropriate sanctions.

(4) That the individual was appropriately or inappropriately assigned.

(5) Such other rulings as are appropriate to the issues in question. However, a hearing officer shall not consider the validity or constitutionality of any of the applicable laws.

(b) Based on the entire record, including any evidence and oral testimony provided at the hearing, the hearing officer shall prepare a written decision. Within 10 working days following the hearing, a copy of the decision stating the hearing officer's findings and conclusions of law and the reasons therefor shall be mailed to the individual and his or her authorized representative, if any, the department, the SAU, and the regional coordination committee. Instructions for appealing an adverse decision or recommendation to the appropriate appellate body shall be attached to the individual's copy of the decision.

(c) In cases involving novel questions of law or policy, the hearing officer may, within five days after issuing his or her written decision, certify the case for review and decision to the appeals board.

SEC. 458. Section 13521 of the Water Code is amended to read:

13521. The State Department of Health Services shall establish statewide reclamation criteria for each varying type of use of reclaimed water where such use involves the protection of public health.

SEC. 459. Section 13522 of the Water Code is amended to read:

13522. Whenever the State Department of Health Services or any local health officer finds that a contamination exists as a result of use of reclaimed water, the department or local health officer shall order the contamination abated in accordance with the procedure provided for in Chapter 6 (commencing with Section 5400) of Part 3, Division 5 of the Health and Safety Code.

SEC. 460. Section 13523 of the Water Code is amended to read:

13523. Each regional board, after consulting with and receiving the recommendations of the State Department of Health Services and after any necessary hearing, shall, if it determines such action to be necessary to protect the public health, safety, or welfare, prescribe water reclamation requirements for water which is used or proposed to be used as reclaimed water. Requirements may be placed upon the person reclaiming water, the user, or both. Such requirements shall include, or be in conformance with, the statewide reclamation criteria established pursuant to this article. The regional board may require the submission of a preconstruction report for the purpose of determining compliance with the reclamation criteria.

SEC. 461. Section 13528 of the Water Code is amended to read:

13528. No provision of this chapter shall be construed as affecting the existing powers of the State Department of Health Services.

SEC. 462. Section 13540 of the Water Code is amended to read:

13540. No person shall construct, maintain or use any waste well extending to or into a subterranean water-bearing stratum that is used or intended to be used as, or is suitable for, a source of water supply for domestic purposes. Notwithstanding the foregoing, when a regional board finds that water quality considerations do not preclude controlled recharge of such stratum by direct injection, and when the State Department of Health Services, following a public hearing, finds the proposed recharge will not impair the quality of water in the receiving aquifer as a source of water supply for domestic purposes, reclaimed water may be injected by a well into such stratum. The State Department of Health Services may make and enforce such regulations pertaining thereto as it deems proper. Nothing in this section shall be construed to affect the authority of the state board or regional boards to prescribe and enforce requirements for such discharge.

SEC. 463. Section 13755 of the Water Code is amended to read:

13755. Nothing in this chapter shall affect the powers and duties of the State Department of Health Services with respect to water and water systems pursuant to Chapter 7 (commencing with Section 4010) of Division 5 of the Health and Safety Code. Every person shall comply with this chapter and any regulation adopted pursuant thereto, in addition to standards adopted by any city or county.

SEC. 464. Section 13800 of the Water Code is amended to read:

13800. The department, after such studies and investigations pursuant to Section 231 as it finds necessary, on determining that water well and cathodic protection well construction, maintenance,

abandonment, and destruction standards are needed in an area to protect the quality of water used or which may be used for any beneficial use, shall so report to the appropriate regional water quality control board and to the State Department of Health Services. The report shall contain such recommended standards for water well and cathodic protection well construction, maintenance, abandonment, and destruction as, in the department's opinion, are necessary to protect the quality of any affected water.

SEC. 465. Section 13858 of the Water Code is amended to read:

13858. The Safe Drinking Water Finance Committee is hereby created. The committee shall consist of the Governor, the State Treasurer, the Director of Finance, the Director of Water Resources, and the State Director of Health Services or their designated representatives. A majority of the committee may act for the committee.

SEC. 466. Section 13861 of the Water Code is amended to read:

13861. (a) The moneys in the fund are hereby continuously appropriated and shall be used for the purposes set forth in this section.

(b) The department is authorized to enter into contracts with suppliers having authority to construct, operate, and maintain domestic water systems, for loans to such suppliers to aid in the construction of projects which will enable the supplier to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

(c) Any contract pursuant to this section may include such provisions as may be agreed upon by the parties thereto, and any such contract shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the project.

(2) An agreement by the department to loan to the supplier, during the progress of construction or following completion of construction as may be agreed upon by the parties, an amount which equals the portion of construction costs found by the department to be eligible for a state loan.

(3) An agreement by the supplier to repay the state, (i) over a period not to exceed 50 years, (ii) the amount of the loan, (iii) the administrative fee as described in Section 13862, and (iv) interest on the principal, which is the amount of the loan plus the administrative fee.

(4) An agreement by the supplier, (i) to proceed expeditiously with, and complete, the project, (ii) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (iii) to apply for and make reasonable efforts to secure federal assistance for the project, (iv) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of such assistance available, and (v) to provide for payment of the

supplier's share of the cost of the project, if any.

(d) By statute, the Legislature may authorize bond proceeds to be used for a grant program, with grants provided to suppliers that are political subdivisions of the state, if it is determined that such suppliers are otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. The total amount of grants shall not exceed fifteen million dollars ($15,000,000), and no one supplier may receive more than four hundred thousand dollars ($400,000) in total.

SEC. 467. Section 13862 of the Water Code is amended to read:

13862. For the purpose of administering the provisions of this chapter, the total expenditures of the department and the State Department of Health Services may not exceed 3 percent of the bond proceeds deposited in the fund. The department shall establish a reasonable schedule of administrative fees, which fees shall be paid by the supplier pursuant to Section 13861, to reimburse the state for the costs of state administration of this chapter.

SEC. 468. Section 13864 of the Water Code is amended to read:

13864. Loans may be made only for projects for domestic water systems. The department may make reasonable allowance for future water-supply needs and may provide for additional capacity when excessive costs would be incurred by later enlargement. Such loans may be made for all or any part of the cost of constructing, improving, or rehabilitating any such system when, in the judgment of the State Department of Health Services, such improvement or rehabilitation is necessary to provide pure, wholesome, and potable water available in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. No loan to an individual supplier shall be more than one million five hundred thousand dollars ($1,500,000), unless the Legislature by an act raises the limit specified in this section.

SEC. 469. Section 13868 of the Water Code is amended to read:

13868. The department, after public notice and hearing and with the advice of the State Department of Health Services, shall adopt rules and regulations necessary to carry out the purposes of this chapter. Such regulations shall include, but not be limited to, criteria and procedures for establishing the eligibility of a supplier and a project for assistance commensurate with the need for the project and the ability of the supplier to reasonably finance the project from other sources. It shall be the duty of the department to adopt such rules and regulations as in its judgment will most effectively carry out the provisions of this chapter in the public interest, to the end that the people of California are most efficiently and most economically provided supplies of pure, wholesome, and potable domestic water. Such rules and regulations may provide for the denial of funds when the purposes of this chapter may most economically and efficiently be attained by means other than the construction of the proposed project.

SEC. 470. Section 13868.1 of the Water Code is amended to read:

13868.1. The State Department of Health Services shall notify suppliers that may be eligible for loans pursuant to this chapter of (a) the purposes of this chapter, and (b) the rules and regulations adopted by the department.

SEC. 471. Section 13868.3 of the Water Code is amended to read:

13868.3. The State Department of Health Services, after public notice and hearing and with the advice of the department, shall from time to time establish a priority list of suppliers to be considered for financing.

SEC. 472. Section 13868.5 of the Water Code is amended to read:

13868.5. Upon approval by the State Department of Health Services of project plans submitted by a supplier on the priority list and upon issuance to the supplier of a permit or amended permit as specified in Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code, the department may enter into a contract with the supplier.

SEC. 473. Section 13903 of the Water Code is amended to read:

13903. Each regional board shall notify each affected city or county, the State Department of Health Services and the State Department of Navigation and Ocean Development of areas of inadequate regulation by ordinance of discharges of waste from houseboats and shall recommend provisions necessary to control the discharges of waste form houseboats into the waters.

SEC. 474. Section 13904 of the Water Code is amended to read:

13904. Each such affected city or county shall within 120 days of receipt of the notice from the regional board, adopt an ordinance for control of discharges of waste from houseboats within the area for which notice was given by the board. A copy of such ordinance shall be sent to the regional board on its adoption and the regional board shall transmit such ordinance to the state board, the State Department of Health Services and the State Department of Navigation and Ocean Development.

SEC. 475. Section 22264 of the Water Code is amended to read:

22264. The provisions of Chapter 7 (commencing with Section 4010), Part 1, Division 5 of the Health and Safety Code shall not apply to districts except in specific areas concerning which the State Department of Health Services gives written notice to the district.

In areas where the service rendered by the district is primarily agricultural and domestic service is only incidental thereto, the State Department of Health Services may prescribe reasonable and feasible action to be taken by the district and the consumers to insure that their domestic water will not be injurious to health.

Municipal and public corporations or utilities, other than a district, which distribute water within a district are not excepted from the provisions of Chapter 7 (commencing with Section 4010), Part 1, Division 5 of the Health and Safety Code by this section.

SEC. 476. Section 21 of the Welfare and Institutions Code is repealed.

SEC. 477. Section 21 is added to the Welfare and Institutions Code, to read:

21. (a) Whenever any reference is made in any provision of this code to the "State Department of Benefit Payments" or the "Department of Benefit Payments" with respect to aid, it means the State Department of Social Services.

Whenever any reference is made to the "State Department of Benefit Payments" or "Department of Benefit Payments" with respect to mental disorders, it means the State Department of Mental Health. Whenever reference is made to the "State Department of Benefit Payments" or "Department of Benefit Payments" with respect to developmental disabilities, it means the State Department of Developmental Services.

(b) Whenever any reference is made in any provision of this code to the "State Department of Health" or the "Department of Health" with respect to health services, medical assistance, or benefits, it means the State Department of Health Services.

Whenever any reference is made to the "State Department of Health" or the "Department of Health" with respect to mental disorders, it means the State Department of Mental Health. Whenever any reference is made to the "State Department of Health" or "Department of Health" in respect to developmental disabilities, it means the State Department of Developmental Services.

(c) Whenever any reference is made in any provision of this code to the "Director of Benefit Payments" with respect to aid, it means the Director of Social Services.

Whenever any reference is made to the "Director of Benefit Payments" with respect to mental disorders, it means the Director of Mental Health. Whenever any reference is made to the "Director of Benefit Payments" with respect to developmental disabilities, it means the Director of Developmental Services.

(d) Whenever any reference is made in any provision of this code to the "State Director of Health" or "Director of Health" with respect to health services, medical assistance, or benefits, it means the State Director of Health Services.

Whenever any reference is made to the "State Director of Health" or "Director of Health" with respect to mental disorders, it means Director of Mental Health. Whenever any reference is made to the "State Director of Health" or "Director of Health" with reference to developmental disabilities, it means the Director of Developmental Services.

SEC. 478. Section 600.5 of the Welfare and Institutions Code is amended to read:

600.5. (a) Each year the State Department of Social Services shall prepare and issue a report on foster care in California. The report shall be based on a sample of foster children drawn from counties which collectively include at least 65 percent of all the foster children in this state. The report shall include an analysis, evaluation

or estimate, as appropriate, of the following, on a statewide basis:

(1) The number of foster children;

(2) The amount of funds expended by federal, state and local government for maintenance payments to foster parents, group homes and institutions;

(3) The amount of funds expended by federal, state and local government on services to foster children and their natural parents or guardians;

(4) The types of services being offered to parents and their children in order to keep the family together;

(5) The number of foster children who are of adoptable age, the number of such children adopted, and the number of foster children determined not be be adoptable and the reasons therefor;

(6) The number of foster children placed in permanent foster care or guardianship;

(7) The size of caseloads of probation officers and social workers, the effect such caseloads have on the services offered to parents or their children, and the effectiveness of such services;

(8) The movement of foster children within the program from placement to placement and the shifting responsibility for such children within the county probation department or welfare department;

(9) The foster care-related qualifications, education, and in-service training of social workers and probation officers who handle such cases;

(10) Any other matters relating to foster children which the department deems appropriate to be included in such report. The report shall be submitted to the Governor and Legislature no later than January of each year.

(b) All personal information and records obtained by the department pursuant to this section shall be confidential and may be disclosed only in those instances designated in Section 5328.

(c) Any person may bring an action against an individual who has willingly and knowingly released confidential information or records concerning him in violation of the provisions of this section, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

SEC. 479. Section 727 of the Welfare and Institutions Code is amended to read:

727. When a minor is adjudged a dependent child of the court on

the ground that he is a person described by Section 600, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

The court may order the care, custody, control and conduct of such minor to be under the supervision of the probation officer or may commit such minor to the care, custody and control of:

(a) Some reputable person of good moral character who consents to such commitment.

(b) Some association, society, or corporation embracing within its objects the purpose of caring for such minors, with the consent of such association, society, or corporation.

(c) The probation officer, to be boarded out or placed in some suitable family home or suitable private institution, subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code; provided, however, that pending action by the State Department of Social Services the placement of a minor in a home certified as meeting minimum standards for boarding homes by the probation officer shall be legal for all purposes.

(d) Any other public agency organized to provide care for needy or neglected children.

When a minor is adjudged a dependent child of the court on the ground that he is a person described by Section 600 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required, and may be ordered, to participate in a counseling program to be provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the court on the ground that he is a person described by subdivision (d) of Section 600 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian shall be required to participate in a counseling program to be provided by an appropriate agency, designated by the court.

When a minor has been adjudged a ward of the court on the ground that he is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling program to be provided by an appropriate agency designated by the court.

SEC. 480. Section 1756 of the Welfare and Institutions Code is amended to read:

1756. Notwithstanding any other provision of law, if, in the opinion of the Director of the Youth Authority, the rehabilitation of any mentally disordered, or mentally deficient person confined in a state correctional school may be expedited by treatment at one of the

state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services the Director of the Youth Authority shall certify that fact to the director of the appropriate department who may authorize receipt of such person at one of such hospitals for care and treatment. Upon notification from such director that the person will no longer benefit from further care and treatment in the state hospital, the Director of the Youth Authority will immediately send for, take and receive the person back into a state correctional school. Any person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his commitment unless a petition for detention of such person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 481. Section 3003 of the Welfare and Institutions Code is amended to read:

3003. The Director of Corrections may enter into agreements with the Director of Mental Health or the Director of Developmental Services pursuant to which persons committed to the custody of either for narcotic addiction or imminent narcotic addiction can be transferred to an institution under the jurisdiction of the other.

SEC. 482. Section 3300 of the Welfare and Institutions Code is amended to read:

3300. There is hereby established an institution and branches, under the jurisdiction of the Department of Corrections, to be known as the California Rehabilitation Center. Branches may be established in existing institutions of the Department of Corrections or of the Department of the Youth Authority, in halfway houses as described in Section 3153, in such other facilities as may be made available on the grounds of other state institutions, and in city and county correctional facilities where treatment facilities are available. Branches shall not be established on the grounds of such other institutions in any manner which will result in the placement of patients of such institutions into inferior facilities. Branches placed in a facility of the State Department of Mental Health shall have prior approval of the Director of Mental Health, and branches placed in a facility of the State Department of Developmental Services shall have the prior approval of the Director of Developmental Services. The branches in the Department of the Youth Authority shall be established on order of the Secretary of the Health and Welfare Agency and shall be subject to the administrative direction of the Director of the Youth Authority. Branches placed in city or county facilities shall have prior approval of the legislative body of the city or county.

Persons confined pursuant to this section in branches established in city and county correctional facilities shall be housed separately from the prisoners therein, and shall be entitled to receive treatment substantially equal to that which would be afforded such persons if

confined in the main institution of the California Rehabilitation Center.

SEC. 483. The heading of Division 4 (commencing with Section 4001) of the Welfare and Institutions Code is amended to read:

DIVISION 4. MENTAL HEALTH

SEC. 484. The heading of Part 1 (commencing with Section 4001) of Division 4 of the Welfare and Institutions Code is amended to read:

PART 1. GENERAL ADMINISTRATION, POWERS AND DUTIES OF THE DEPARTMENT

SEC. 485. The heading of Chapter 1 (commencing with Section 4001) of Part 1 of Division 4 of the Welfare and Institutions Code is repealed.

SEC. 486. Section 4000 is added to the Welfare and Institutions Code, to read:

4000. There is in the Health and Welfare Agency a State Department of Mental Health.

SEC. 487. Section 4001 of the Welfare and Institutions Code is amended to read:

4001. As used in this division:

(a) "Department" means the State Department of Mental Health.

(b) "Director" means the Director of Mental Health.

(c) "State hospital" means any hospital specified in Section 4100.

SEC. 488. Section 4002 of the Welfare and Institutions Code is repealed.

SEC. 489. Section 4002 is added to the Welfare and Institutions Code, to read:

4002. As used in Division 5 (commencing with Section 5000) and Division 6 (commencing with 5600) of this code, the terms "State Department of Health" and "Department of Health" shall be construed to refer to and mean the State Department of Mental Health when the reference is to mental disorders, and to refer and mean the State Department of Developmental Services when the reference is to developmental disabilities.

SEC. 490. Section 4003 of the Welfare and Institutions Code is repealed.

SEC. 491. Section 4003 is added to the Welfare and Institutions Code, to read:

4003. As used in Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 5600) of this code, the term "Director of Health" shall be construed to refer to and mean the Director of Mental Health when the reference is to mental disorders, and to refer to and mean the Director of Developmental Services when the reference is to developmental disabilities.

SEC. 492. Section 4004 of the Welfare and Institutions Code is amended to read:

4004. The department is under the control of an executive officer known as the Director of Mental Health.

SEC. 493. Section 4005 is added to the Welfare and Institutions Code, to read:

4005. With the consent of the Senate, the Governor shall appoint, to serve at his pleasure, the Director of Mental Health. He shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government Code.

SEC. 494. Section 4005.1 is added to the Welfare and Institutions Code, to read:

4005.1. The State Department of Mental Health succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health or the State Department of Benefit Payments with respect to mental disorders on the date immediately prior to the date this section becomes operative.

SEC. 495. Section 4005.2 is added to the Welfare and Institutions Code, to read:

4005.2. The State Department of Mental Health shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Director of Health or the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Mental Health by Section 4005.1.

SEC. 496. Section 4005.3 is added to the Welfare and Institutions Code, to read:

4005.3. All officers and employees of the Director of Health or the Director of Benefit Payments who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Mental Health by Section 4005.1, shall be transferred to the State Department of Mental Health. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Mental Health pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 496.5. Section 4005.4 is added to the Welfare and Institutions Code, to read:

4005.4. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Mental Health by Section 4005.1 and in effect on the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the

Director of Mental Health.

SEC. 497. Section 4006 of the Welfare and Institutions Code is amended to read:

4006. With the approval of the Department of General Services and for use in the furtherance of the work of the State Department of Mental Health, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in scientific, educational, charitable, or mental hygiene fields.

SEC. 498. Section 4008 of the Welfare and Institutions Code is amended to read:

4008. The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for such officers and employees for which such officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

Attending meetings of any national association or organization having as its principal purpose the study of matters relating to administration of institutions, and care and treatment of mentally ill; conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management; and obtaining information therefrom, which information would be useful in the conduct of institutional, psychiatric, medical, and similar activities of the State Department of Mental Health.

SEC. 499. Section 4010 of the Welfare and Institutions Code is amended to read:

4010. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of Mental Health.

SEC. 500. Section 4011 of the Welfare and Institutions Code is amended to read:

4011. Unless otherwise indicated in this code, the State Department of Mental Health has jurisdiction over the execution of the laws relating to the care, custody, and treatment of mentally disordered persons, as provided in this code.

As used in this division, "establishment" and "institution" include every hospital, sanitarium, boarding home, or other place receiving or caring for mentally disordered persons.

SEC. 501. Section 4012 of the Welfare and Institutions Code is

amended to read:

4012. The State Department of Mental Health may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental disorder.

(b) Upon request, advise all public officers, organizations and agencies interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental hygiene facilities throughout the state.

The department may organize, establish and maintain community mental hygiene clinics for the prevention, early diagnosis and treatment of mental disorder. Such clinics may be maintained only for persons not requiring institutional care, who voluntarily seek the aid of such clinics. Such clinics may be maintained at the locations in the communities of the state designated by the director, or at any institution under the jurisdiction of the department designated by the director.

The department may establish such rules and regulations as are necessary to carry out the provisions of this section. This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

SEC. 502. Section 4012.5 of the Welfare and Institutions Code is amended to read:

4012.5. The State Department of Mental Health may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

SEC. 503. Section 4014.5 of the Welfare and Institutions Code is amended to read:

4014.5. In order to assure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Mental Health shall plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills.

SEC. 504. Section 4015 of the Welfare and Institutions Code is amended to read:

4015. The department shall examine all public and private hospitals, boarding homes or other establishments whether or not licensed by the department, receiving or caring for the mentally disordered, and shall inquire into their methods of government, and the treatment of all patients thereof.

It shall examine the condition of all buildings, grounds, or other property connected with such institutions, and shall inquire into all

matters relating to their management. For the purposes specified in this paragraph the department shall have free access to the grounds, buildings, and books and papers of any such institution, and every person connected therewith shall give such information and afford such facilities for examination or inquiry as the department requires.

SEC. 505. Section 4020 of the Welfare and Institutions Code is amended and renumbered to read:

4426. The department may inquire into the manner in which any mentally retarded person subject to commitment, not confined in a state hospital, is cared for and maintained. If, in its judgment, any such person is not properly and suitably cared for, it may apply to a judge of the superior court for an order to commit him to a state hospital under the provisions of this code. Such order shall not be made unless the judge finds, and certifies in the order, that such person is not properly or suitably cared for by his relatives or guardian, or that it is dangerous to the public to allow him to be cared for and maintained by such relatives or guardian.

SEC. 506. Section 4021 of the Welfare and Institutions Code is amended to read:

4021. When the department has reason to believe that any person held in custody as mentally disordered is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may excercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the mentally disordered, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

The department may at any time cause the patients of any county or city almshouse to be visited and examined, in order to ascertain if mentally disordered persons are kept therein.

SEC. 507. Section 4022 of the Welfare and Institutions Code is amended to read:

4022. When complaint is made to the department regarding the officers or management of any hospital or institution for the mentally disordered, or regarding the management of any person detained therein or regarding any person held in custody as mentally disordered, the department may, before making an examination regarding such complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall direct that a copy of the complaint be served on the authorities of the

hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

SEC. 508. Section 4023 of the Welfare and Institutions Code is amended to read:

4023. The department shall biennially report to the Legislature its acts and proceedings for the two years ending the June 30th last preceding, with such facts regarding the management of the institution for the mentally disordered as it deems necessary for the information of the Legislature, including estimates of the amounts required for the use of such hospitals and the reasons therefor, and including annual reports for each state hospital.

SEC. 509. Section 4024 of the Welfare and Institutions Code is amended to read:

4024. The department shall report to the Legislature the prospective needs for the care, custody, and treatment of the mentally disordered, together with its recommendations therefor. For the purpose of preventing overcrowding, it shall recommend such plans for the development of additional medical facilities as, in its judgment, will best meet the requirements of such persons.

SEC. 510. The heading of Chapter 2 (commencing with Section 4100) of Part 1 of Division 4 of the Welfare and Institutions Code is amended to read:

PART 2. ADMINISTRATION OF STATE INSTITUTIONS FOR THE MENTALLY DISORDERED

SEC. 511. The heading of Article 1 (commencing with Section 4100) of Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions Code is amended to read:

CHAPTER 1. JURISDICTION AND GENERAL GOVERNMENT

SEC. 512. Section 4100 of the Welfare and Institutions Code is amended to read:

4100. The department has jurisdiction over the following institutions:

Atascadero State Hospital.

Metropolitan State Hospital.

SEC. 513. Section 4101 of the Welfare and Institutions Code is amended to read:

4101. Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by uniform rule and regulation of the State Department of Mental Health and all of the provisions of this chapter shall apply to the conduct and management of such institutions.

SEC. 514. Section 4104 of the Welfare and Institutions Code is amended to read:

4104. All lands necessary for the use of the state hospitals specified in Section 4100, except those acquired by gift, devise, or purchase, shall be acquired by condemnation as lands for other public uses are acquired.

The terms of every purchase shall be approved by the State Department of Mental Health. No public street or road for railway or other purposes, except for hospital use, shall be opened through the lands of any state hospital, unless the Legislature by special enactment consents thereto.

SEC. 515. Section 4105 of the Welfare and Institutions Code is amended and renumbered to read:

4445. Notwithstanding the provisions of Section 4444, the Director of General Services, with the consent of the State Department of Developmental Services, may grant rights-of-way for road purposes over and across state property comprising the site of the Sonoma State Hospital, upon such terms and conditions as the Director of General Services may deem to be for the best interests of the state.

SEC. 516. Section 4107 of the Welfare and Institutions Code is amended and renumbered to read:

4446. The Director of General Services shall transfer to the Department of Public Works of the State of California under such terms, conditions and restrictions as he deems to be for the best interests of the state, the necessary easements and right-of-way for all purposes of a state highway on the Agnews State Hospital property. The right-of-way shall be across, along and upon the following described property:

All that real property in the County of Santa Clara, State of California, described as:

A portion of that certain 118-acre parcel of land, situate in the Rancho Rincon de Los Esteros, described in the Deed of Trust recorded in Book 687, at page 50, Official Records of Santa Clara County, more particularly described as follows:

Commencing at the northwesterly corner of said Parcel; thence along the Southerly line of the existing State highway in Santa Clara County, Road IV-SCL-113-A, N. 74°49'08" E., 2018.23 feet; thence N. 14°33'52" W., 33.00 feet to the center line of said State highway; thence along said center line N. 74°49'08" E., 1117.32 feet to the general easterly line of said Parcel; thence along last said line S. 15°10'52" E., 95.00 feet, from a tangent that bears N. 81°39'12" W., along a curve to the left with a radius of 203.99 feet, through an angle of 76°23'40", an arc length of 271.99 feet and S. 21°57'08" W., 68.90 feet to a line parallel with and distant 83.00 feet southerly measured radially from the "A_3" Line of the Department of Public Works Survey for the State freeway in Santa Clara County Road IV-SCL-113-A; thence along said parallel line from a tangent that bears S. 77°03'12" W., along a curve to the left with a radius of 3917.00 feet, through an angle of 2°14'04", an arc length of 152.76 feet and S. 74°49'08" W., 1746.04 feet; thence S. 73°01'07" W., 704.53 feet to a line

parallel with and distant 275.00 feet easterly, at right angles from the general westerly line of aforesaid 118 Acre parcel of land; thence along last said parallel line S. 6°22'52" E., 250.30 feet; thence S. 9°08'55" W., 556.89 feet; thence S. 5°26'26" E., 253.18 feet; thence S. 14°31'51" E., 176.27 feet to the general Southerly line of said Parcel; thence along said general Southerly line N. 89°37'51" W., 72.44 feet to the aforesaid general Westerly line of said Parcel; thence along last said line N. 14°31'51" W., 527.64 feet, and N. 6°22'52" W., 843.44 feet to the point of commencement.

Containing 17.216 acres, more or less in addition to 0.846 of an acre more or less within the adjoining public way.

This transfer shall be for the purposes of a freeway and the grantor shall release and relinquish to the Department of Public Works any and all abutter's rights of access, appurtenant to the Agnews State Hospital's remaining property, in and to said freeway, over and across the courses described above with lengths of 152.76 feet, 1746.04 feet, 704.53 feet and 250.30 feet, and over and across the northerly 206.89 feet of the course described above with the length of 556.89 feet.

The bearings and distances used in the above description are on the California Co-ordinate System, Zone 3.

SEC. 517. Section 4107.1 of the Welfare and Institutions Code is amended and renumbered to read:

4446.5. Notwithstanding the provisions of Section 4444, the Director of General Services, with the consent of the State Department of Mental Health, may grant to the County of Napa a right-of-way for public road purposes over the northerly portion of the Napa State Hospital lands for the widening of Imola Avenue between Penny Lane and Fourth Avenue, upon such terms and conditions as the Director of General Services may deem for the best interests of the state.

SEC. 518. Section 4108 of the Welfare and Institutions Code is amended and renumbered to read:

4447. Notwithstanding Section 4444, the Director of General Services with the consent of the State Department of Developmental Services, may grant a right-of-way for road purposes to the City of Stockton over and along a portion of the Stockton State Hospital property adjacent to Harding Way upon such terms and conditions and with such reservations and exceptions as in the opinion of the Director of General Services may be for the best interests of the state.

The Director of General Services under the same conditions may grant a right-of-way for road purposes to the County of Orange over a portion of the Fairview State Hospital property adjacent to Harbor Boulevard.

SEC. 518.5. Section 4108.1 of the Welfare and Institutions Code is amended to read:

4108.1. The Director of General Services, with the consent of the State Department of Mental Health, may grant to the County of

Stanislaus a right-of-way for public road purposes over the easterly portion of the Modesto State Hospital lands for the northerly projection of Carpenter Road from the northerly line of Blue Gum Avenue to the northerly boundary of the state hospital lands, upon such terms and conditions as the Director of General Services may deem to be for the best interests of the state.

SEC. 519. Section 4108.2 of the Welfare and Institutions Code is amended and renumbered to read:

4448. The department shall participate with the City of Porterville in the construction of an interceptor sewer between the Porterville State Hospital facilities and the sewer facilities of the City of Porterville.

For the purpose of this section the state may expend from any available funds 20 percent of the bid for the construction of the project authorized pursuant to this section or sixty thousand dollars ($60,000), whichever is less.

SEC. 519.5. Section 4109 of the Welfare and Institutions Code is amended to read:

4109. The State Department of Mental Health has general control and direction of the property and concerns of each state hospital specified in Section 4100. The department shall:

(a) Take care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

(b) Establish such bylaws, rules, and regulations as it deems necessary and expedient for regulating the duties of officers and employees of the hospital, and for its internal government, discipline, and management.

(c) Maintain an effective inspection of the hospital.

SEC. 520. Section 4110 of the Welfare and Institutions Code is amended to read:

4110. The medical superintendent shall make triplicate estimates, in minute detail, as approved by the State Department of Mental Health, of such supplies, expenses, buildings, and improvements as are required for the best interests of the hospital, and for the improvement thereof and of the grounds and buildings connected therewith. These estimates shall be submitted to the State Department of Mental Health, which may revise them. The department shall certify that it has carefully examined the estimates, and that the supplies, expenses, buildings, and improvements contained in such estimates, as approved by it, are required for the best interests of the hospital. The department shall thereupon proceed to purchase such supplies, make such expenditures, or conduct such improvements or buildings in accordance with law.

SEC. 521. Section 4111 of the Welfare and Institutions Code is amended to read:

4111. The state hospitals may manufacture supplies and materials necessary or required to be used in any of the state hospitals which can be economically manufactured therein. The necessary cost and

expense of providing for and conducting the manufacture of such supplies and materials shall be paid in the same manner as other expenses of the hospitals. No hospital shall enter into or engage in manufacturing any supplies or materials unless permission for the same is obtained from the State Department of Mental Health. If, at any time, it appears to the department that the manufacture of any article is not being or cannot be economically carried on at a state hospital, the department may suspend or stop the manufacture of such article, and on receipt of a certified copy of the order directing the suspension or stopping of such manufacture, by the medical superintendent, the hospital shall cease from manufacturing such article.

SEC. 522. Section 4114 of the Welfare and Institutions Code is amended to read:

4114. The authorities for the several hospitals shall furnish to the State Department of Mental Health the facts mentioned in Section 4019 of this code and such other obtainable facts as the department from time to time requires of them, with the opinion of the superintendent thereon, if requested. The superintendent or other person in charge of a hospital shall, within 10 days after the admission of any person thereto, cause an abstract of the medical certificate and order on which such person was received and a list of all property, books, and papers of value found in the possession of or belonging to such person to be forwarded to the office of the department, and when a patient is discharged, transferred, or dies, the superintendent or person in charge shall within three days thereafter, send the information to the office of the department, in accordance with the form prescribed by it.

SEC. 523. Section 4117 of the Welfare and Institutions Code is amended to read:

4117. Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital under the provisions of Section 6330, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026a of the Penal Code or Section 7361 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the county clerk of the county in which such trial or hearing is had must make out a statement of all costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him to and from the hospital, and costs of appeal, which statement shall be properly certified by a judge of the superior court of such county and sent to the State Department of Mental Health for its approval. After such approval, the department shall cause the amount of such costs to be paid out of the money appropriated for the support of the state hospital, to the county treasurer of the county

where such trial or hearing was had.

SEC. 524. Section 4118 of the Welfare and Institutions Code is amended to read:

4118. The State Department of Mental Health shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital.

SEC. 525. Section 4119 of the Welfare and Institutions Code is amended to read:

4119. The State Department of Mental Health shall investigate and examine all nonresident persons judicially committed to any state hospital and shall cause such persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer such action by reason of a patient's medical condition.

For the purpose of facilitating the prompt and humane return of such persons the State Department of Mental Health may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of such persons judicially committed to any state hospital in one state whose legal residence is in the other, and it may in such reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state hospital for the mentally disordered of this state. When a resident is returned to this state pursuant to this chapter, he may be admitted as a voluntary patient to any institution of the department as designated by the Director of Mental Health. If he is mentally disordered and is a danger to himself or others or he is gravely disabled, he may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5, or, if he is a person subject to judicial commitment, he may be committed in accordance with the law.

SEC. 526. Section 4120 of the Welfare and Institutions Code is amended to read:

4120. Except as otherwise provided in this section in determining residence for purposes of being entitled to hospitalization in this state and for purposes of returning patients to the states of their residence, an adult person who has lived continuously in this state for a period of one year and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state shall be deemed to be a resident of this state. Except as otherwise provided in this section a minor is entitled to hospitalization in this state if the parent or guardian having custody of the minor has lived continuously in this state for a period of one year and has not acquired residence in another state by living

continuously therein for at least one year subsequent to his residence in this state. Such parent or guardian shall be deemed a resident of this state for the purposes of this section, and such minor shall be eligible for hospitalization in this state as a mentally disordered person. The eligibility of such minor for hospitalization in this state ceases when such parent or guardian ceases to be a resident of this state and such minor shall be transferred to the state of residence of the parent or guardian in accordance with the applicable provisions of this code. Time spent in a public institution for the care of the mentally disordered or mentally retarded or on leave of absence therefrom shall not be counted in determining the matter of residence in this or another state.

Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

SEC. 527. Section 4121 of the Welfare and Institutions Code is amended to read:

4121. All expenses incurred in returning such persons to other states shall be paid by this state, the person or his relatives, but the expense of returning residents of this state shall be borne by the states making the returns.

The cost and expense incurred in effecting the transportation of such nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of delinquent, or mentally disordered persons upon vouchers approved by the State Board of Control.

SEC. 528. Section 4122 of the Welfare and Institutions Code is amended to read:

4122. The State Department of Mental Health, when it deems it necessary, may, under conditions prescribed by the director, transfer any patients of a state institution under its jurisdiction to another such institution. Transfers of patients of state hospitals shall be made in accordance with the provisions of Section 7300.

Transfer of a conservatee shall only be with the consent of the conservator.

The expense of any such transfer shall be paid from the moneys available by law for the support of the department or for the support of the institution from which the patient is transferred. Liability for the care, support, and maintenance of a patient so transferred in the institution to which he has been transferred shall be the same as if he had originally been committed to such institution. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount due the state for care, support, and maintenance of any such patients and which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 529. Section 4123 of the Welfare and Institutions Code is amended to read:

4123. The Director of Mental Health may authorize the transfer of persons from any institution within the department to any institution authorized by the federal government to receive such person.

SEC. 530. Section 4124 of the Welfare and Institutions Code is amended to read:

4124. The State Department of Mental Health shall send to the Department of Veterans Affairs whenever requested a list of all persons who have been patients for six months or more in each state institution within the jurisdiction of the State Department of Mental Health and who are known to have served in the armed forces of the United States.

SEC. 531. Section 4125 of the Welfare and Institutions Code is amended to read:

4125. The Director of Mental Health may deposit any funds of patients in the possession of each hospital administrator of a state hospital in trust with the treasurer pursuant to Section 16305.3, Government Code, or, subject to the approval of the Department of Finance, may deposit such funds in interest-bearing bank accounts or invest and reinvest such funds in any of the securities which are described in Article 1 (commencing with Section 16430), Chapter 3, Part 2, Division 4, Title 2 of the Government Code and for the purposes of deposit or investment only may mingle the funds of any patient with the funds of other patients. The hospital administrator with the consent of the patient may deposit the interest or increment on the funds of a patient in the state hospital in a special fund for each state hospital, to be designated the "Benefit Fund," of which he shall be the trustee. He may, with the approval of the Director of Mental Health, expend the moneys in any such fund for the education or entertainment of the patients of the institution.

On and after December 1, 1970, the funds of a patient in a state hospital or a patient on leave of absence from a state hospital shall not be deposited in interest-bearing bank accounts or invested and reinvested pursuant to this section except when authorized by the patient; any interest or increment accruing on the funds of a patient on leave of absence from a state hospital shall be deposited in his account; any interest or increment accruing on the funds of a patient in a state hospital shall be deposited in his account, unless such patient authorizes their deposit in the state hospital's "benefit fund."

Any state hospital charges for patient care against the funds of a patient in the possession of a hospital administrator or deposited pursuant to this section and which are used to pay for such care, shall be stated in an itemized bill to the patient.

SEC. 532. Section 4126 of the Welfare and Institutions Code is amended to read:

4126. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health dies, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said

superintendent by the owner of the funds or property or his legally appointed representative all money and other personal property of such decedent remaining in the custody or possession of the superintendent thereof shall be held by him for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of such decedent.

Upon the expiration of said one-year period, any money remaining unclaimed in the custody or possession of the superintendent shall be delivered by him to the State Treasurer for deposit in the Unclaimed Property Fund under the provisions of Article 1 of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of said one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the superintendent, shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him to the State Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he deems it expedient to do so, the superintendent may accumulate the property of several decedents and sell the property in such lots as he may determine, provided that he makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the superintendent may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in paragraph (a), (b), or (c) hereof, shall be delivered by the superintendent to the State Controller for deposit in the State Treasury under the provisions of Article 1 of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

SEC. 533. Section 4127 of the Welfare and Institutions Code is amended to read:

4127. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health escapes, or is discharged or is on leave of absence from such institution, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, all money and other intangible personal property of such patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent thereof shall be held by him for a period of seven years from the date of such

escape, discharge, or leave of absence, for the benefit of such patient or his successors in interest; provided, however, that unclaimed personal funds or property of minors on leave of absence may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of Mental Health.

Upon the expiration of said seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of such escape, discharge, or parole:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of such patient;

(b) All tangible personal property other than money, remaining unclaimed in his custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him subject to the provisions of Section 4125 of this code, and subject to the provisions of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure. If he deems it expedient to do so, the superintendent may accumulate the property of several patients and may sell the property in such lots as he may determine, provided that he makes a determination as to each patient's share of the proceeds;

If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

SEC. 534. Section 4133 of the Welfare and Institutions Code is amended to read:

4133. All day hospitals and rehabilitation centers maintained by the State Department of Mental Health shall be subject to the provisions of this code pertaining to the admission, transfer, and discharge of patients at the state hospitals, except that all admissions to such facilities shall be subject to the approval of the chief officer thereof. Charges for services rendered to patients at such facilities shall be determined pursuant to Section 4025. The liability for such charges shall be governed by the provisions of Article 4 (commencing at Section 7275) of Chapter 3 of Division 7 of this code, except at the hospitals for the mentally retarded such liability shall be governed by the provisions of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 of this code and Chapter 4 (commencing with Section 7500) of Division 7 of this code.

SEC. 535. Section 4134 of the Welfare and Institutions Code is

amended to read:

4134. The state mental hospitals under the jurisdiction of the State Department of Mental Health shall comply with the provisions contained in the California Food Sanitation Act, Article 1 (commencing with Section 28280) of Chapter 7 of Division 21 of the Health and Safety Code.

The state mental hospitals under the jurisdiction of the State Department of Mental Health shall also comply with the provisions contained in the California Restaurant Act, Chapter 11 (commencing with Section 28520) of Division 21 of the Health and Safety Code.

Sanitation, health and hygiene standards which have been adopted by a city, county, or city and county which are more strict than those of the California Restaurant Act or the California Food Sanitation Act shall not be applicable to state mental hospitals which are under the jurisdiction of the State Department of Mental Health.

SEC. 536. Section 4135 of the Welfare and Institutions Code is amended to read:

4135. Any person committed to the State Department of Mental Health as a mentally abnormal sex offender shall remain a patient committed to the department for the period specified in the court order of commitment or until discharged by the medical director of the state hospital in which the person is a patient, whichever occurs first. The medical director may grant such patient a leave of absence upon such terms and conditions as the medical director deems proper. The petition for commitment of a person as a mentally abnormal sex offender, the reports, the court orders and other court documents filed in the court in connection therewith shall not be open to inspection by any other than the parties to the proceeding, the attorneys for the party or parties, and the State Department of Mental Health, except upon the written authority of a judge of the superior court of the county in which the proceedings were had.

Records of the supervision, care and treatment given to each person committed to the State Department of Mental Health as a mentally abnormal sex offender shall not be open to the inspection of any person not in the employ of the department or of the state hospital, except that a judge of the superior court may by order permit examination of such records.

The charges for the care and treatment rendered to persons committed as mentally abnormal sex offenders shall be in accordance with the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

SEC. 537. The heading of Article 2 (commencing with Section 4200) of Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions Code is amended to read:

CHAPTER 2. BOARDS OF TRUSTEES AND OTHER ADVISORY BOARDS

SEC. 538. Section 4200 of the Welfare and Institutions Code is amended to read:

4200. Each state hospital under the jurisdiction of the State Department of Mental Health shall have a hospital advisory board of seven members appointed by the Governor from a list of nominations submitted to him by the boards of supervisors of counties within each hospital's designated service area. If a state hospital provides services for both the mentally disordered and the developmentally disabled, there shall be a separate advisory board for the program provided the mentally disordered and a separate board for the program provided the developmentally disabled. To the extent feasible, an advisory board serving a hospital for the mentally disordered shall consist of two relatives of mentally disordered persons who, at the time of the appointment, are patients in that hospital, three representatives of professional disciplines who are not employees of the state hospital system, but who are serving the mentally disordered, and two representatives of the general public who have demonstrated an interest in services to the mentally disordered.

Of the members first appointed after the operative date of the amendments made to this section during the 1975–76 legislative session, one shall be appointed for a term of two years, and one for three years. Thereafter, each appointment shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

Notwithstanding any provision of this section, members serving on the hospital advisory board on the operative date of the amendments made to this section during the 1975–76 legislative session, may continue to serve on the board until the expiration of their term. The Legislature intends that changes in the composition of the board required by such amendments apply to future vacancies on the board.

SEC. 539. Section 4202 of the Welfare and Institutions Code is amended to read:

4202. The advisory boards of the several state hospitals are advisory to the State Department of Mental Health and the Legislature with power of visitation and advice with respect to the conduct of the hospitals and coordination with community mental health programs. The members of the boards shall serve without compensation other than necessary expenses incurred in the performance of duty. They shall organize and elect a chairman. They shall meet at least once every three months and at such other times as they are called by the chairman, by the medical director, by the head of the department or a majority of the board. No expenses shall be allowed except in connection with meetings so held.

The advisory board or boards of each state hospital shall make a written report on its activities, findings and recommendations for transmission through the State Department of Mental Health to each regular session of the Legislature. The department shall transmit the reports along with their suggestions, comments and recommendations concerning the reports to the Legislature.

SEC. 540. Section 4202.5 of the Welfare and Institutions Code is amended to read:

4202.5. (a) The chairman of a hospital advisory board advising a hospital for the mentally disordered shall meet annually with the hospital director, the community mental health directors, and the chairmen of the mental health advisory boards representing counties within the hospital's designated service area.

(b) The chairmen shall be allowed necessary expenses incurred in attending such meetings.

(c) It is the intent of the Legislature that the department assist the development of annual regional meetings required by this section.

SEC. 541. The heading of Article 3 (commencing with Section 4300) of Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions Code is amended to read:

CHAPTER 3. OFFICERS AND EMPLOYEES

SEC. 542. Section 4301 of the Welfare and Institutions Code is amended to read:

4301. The Director of Mental Health shall appoint and define the duties, subject to the laws governing civil service, of the clinical director and the hospital administrator for each state hospital. The director shall appoint either the clinical director or the hospital administrator to be the hospital director.

The director shall appoint a program director for each program at a state hospital.

SEC. 543. Section 4302 of the Welfare and Institutions Code is amended to read:

4302. The Director of the State Department of Mental Health shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals.

SEC. 544. Section 4304 of the Welfare and Institutions Code is amended to read:

4304. The primary purpose of a state hospital is the medical and nursing care of patients who are mentally disordered. The efforts and direction of the officers and employees of each state hospital shall be directed to this end.

SEC. 545. Section 4305 of the Welfare and Institutions Code is amended to read:

4305. Subject to the rules and regulations established by the department, and under the supervision of the hospital director when the hospital director is the hospital administrator, the clinical

director of each state hospital shall be responsible for the planning, development, direction, management, supervision, and evaluation of all patient services, and of the supervision of research and clinical training.

SEC. 546. Section 4308 of the Welfare and Institutions Code is amended to read:

4308. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of Mental Health, he shall appoint, as provided in Section 4301, a clinical director, a hospital administrator, a hospital director, a medical program director, and program directors.

A hospital administrator shall be a college graduate preferably with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public mental hospital administrators.

A clinical director for a state hospital for the mentally disordered shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and shall be a qualified specialist in a branch of medicine that includes diseases affecting the brain and nervous system. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

The hospital director shall be either the hospital administrator or the clinical director. He shall be selected based on his overall knowledge of the hospital, its programs, and its relationship to its community, and on his demonstrated abilities to administer a large facility.

The standards for the professional qualifications of a program director shall be established by the Director of Mental Health for each patient program. The director shall not adopt any regulations which prohibit a licensed psychiatrist, psychologist, psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs which may only be performed by a licensed physician.

SEC. 547. Section 4314 of the Welfare and Institutions Code is amended to read:

4314. The Director of Mental Health may set aside and designate any space on the grounds of any of the institutions under the jurisdiction of the department that is not needed for other authorized purposes, to enable such institution to establish and maintain therein a store or canteen for the sale to or for the benefit of patients of the institution of candies, cigarettes, sundries and other articles. The stores shall be conducted subject to the rules and

regulations of the department and the rental, utility and service charges shall be fixed as will reimburse the institutions for the cost thereof. The stores when conducted under the direction of a hospital administrator shall be operated on a nonprofit basis but any profits derived shall be deposited in the benefit fund of each such institution as set forth in Section 4125.

Before any store is authorized or established, the Director of Mental Health shall first determine that such facilities are not being furnished adequately by private enterprise in the community where it is proposed to locate the store, and may hold public hearings or cause surveys to be made, to determine the same.

The Director of Mental Health may rent such space to private individuals, for the maintenance of a store or canteen at any of the said institutions upon such terms and subject to such regulations as are approved by the Department of General Services, in accordance with the provisions of Section 13109 of the Government Code. The terms imposed shall provide that the rental, utility and service charges to be paid shall be fixed so as to reimburse the institution for the cost thereof and any additional charges required to be paid shall be deposited in the benefit fund of such institution as set forth in Section 4125.

SEC. 548. Chapter 3 (commencing with Section 4330) of Part 1 of Division 4 of the Welfare and Institutions Code is repealed.

SEC. 549. Division 4.1 (commencing with Section 4400) is added to the Welfare and Institutions Code, to read:

DIVISION 4.1. DEVELOPMENTAL SERVICES

PART 1. GENERAL ADMINISTRATION, POWERS AND DUTIES OF THE DEPARTMENT

4400. There is in the Health and Welfare Agency a State Department of Developmental Services.

4401. As used in this division:

(a) "Department" means the State Department of Developmental Services.

(b) "Director" means the Director of Developmental Services.

(c) "State hospital" means any hospital specified in Section 4440.

4402. As used in Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 5600) of this code, the terms "State Department of Health" and "Department of Health" shall be construed to refer to and mean the State Department of Mental Health when the reference is to mental disorders, and to refer to and mean the State Department of Developmental Services when the reference is to developmental disabilities.

4403. As used in Division 5 (commencing with Section 5000) and Division 6 (commencing with Section 5600) of this code, the term "Director of Health" shall be construed to refer to and mean Director of Mental Health when the reference is to mental disorders,

and to refer to and mean the Director of Development Services when the reference is to developmental disabilities.

4404. The department is under the control of an executive officer known as the Director of Developmental Services.

4405. With the consent of the Senate, the Governor shall appoint to serve at his pleasure, the Director of Developmental Services. He shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

4406. The State Department of Developmental Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health with respect to developmental disabilities on the date immediately prior to the date this section becomes operative.

4407. The State Department of Developmental Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Developmental Services by Section 4406.

4408. All officers and employees of the Director of Health who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Developmental Services by Section 4406 shall be transferred to the State Department of Developmental Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Developmental Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

4409. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Developmental Services by Section 4406 and in effect on the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Developmental Services.

4410. With the approval of the Department of General Services and for use in the furtherance of the work of the State Department of Developmental Services, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in scientific, educational,

charitable, or mental hygiene fields.

4411. The department may expend in accordance with law all money now or hereafter made available for its use, or for the administration of any statute administered by the department.

4412. The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for said officers and employees for which such officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

Attending meetings of any national association or organization having as its principal purpose the study of matters relating to administration of institutions, and care and treatment of developmentally disabled patients; conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management; and obtaining information therefrom, which information would be useful in the conduct of institutional, psychiatric, medical, and similar activities of the State Department of Developmental Services.

4413. The department may appoint and fix the compensation of such employees as it deems necessary, subject to the laws governing civil service.

4414. The department may purchase annuity contracts for permanent employees of the department provided all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code of 1954 of the United States and Section 17512 of the Revenue and Taxation Code;

(b) The purchase of such annuities meets the requirements of the Insurance Code and the Government Code applicable to such purchase;

(c) The salary of an employee for whom such contract is purchased is reduced by the amount of the cost of such contract; and

(d) The employee makes an application to the director for such purchase and reduction of salary.

4415. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of Developmental Services.

4416. Unless otherwise indicated in this code, the State Department of Developmental Services has jurisdiction over the execution of the laws relating to the care, custody, and treatment of developmentally disabled persons, as provided in this code.

As used in this division, "establishment" and "institutions" include

every hospital, sanitarium, boarding home, or other place receiving or caring for developmentally disabled persons.

4417. The State Department of Developmental Services may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental retardation.

(b) Upon request, advise all public officers, organizations and agencies interested in the developmental disabilities of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper developmental disabilities facilities throughout the state.

The department may organize, establish and maintain community mental hygiene clinics for the prevention, early diagnosis and treatment of mental retardation. Such clinics may be maintained only for persons not requiring institutional care, who voluntarily seek the aid of such clinics. Such clinics may be maintained at the locations in the communities of the state designated by the director, or at any institution under the jurisdiction of the department designated by the director.

The department may establish such rules and regulations as are necessary to carry out the provisions of this section. This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

4418. The State Department of Developmental Services may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

4419. Within the limits of available funds it is the intent of the Legislature that the department shall require all personnel working directly with patients to complete, within a reasonable time after the effective date of this section or after their appointments, whichever is later, or have completed, training with regard to the care and treatment of such patients.

4420. In order to assure an adequate number of qualified psychiatric technicians, psychiatrists, physicians and surgeons, psychologists, nurses, social workers, laboratory and other technicians, and ancillary workers, the department shall negotiate with any or all of the following: the University of California, the state colleges, the community colleges, private universities and colleges, and public and private hospitals, and arrange such affiliations or make such contracts for educational or training programs and awards training grants or stipends as may be necessary. Arrangements may be made in the hospitals and clinics operated by the Department for the clinical experience essential to such educational and training

programs, and positions in the department as interns and residents may be established.

4421. In order to assure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Developmental Services shall plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills.

4422. The department shall examine all public and private hospitals, boarding homes or other establishments whether or not licensed by the department, receiving or caring for developmentally disabled persons and shall inquire into their methods of government, and the treatment of all patients thereof.

It shall examine the condition of all buildings, grounds, or other property connected with such institutions, and shall inquire into all matters relating to their management. For the purposes specified in this paragraph the department shall have free access to the grounds, buildings, and books and papers of any such institution, and every person connected therewith shall give such information and afford such facilities for examination or inquiry as the department requires.

4423. In every place in which a developmentally disabled person may be involuntarily held, the persons confined therein shall be permitted access to and examination or inspection of copies of this code.

4424. The department shall adopt, for all hospitals, rules and regulations, books of record for all departments, blank forms for clinical records and other purposes, questions for examination of employees, and questions for examination, in all the different branches of medicine and surgery and especially in the subject of diseases affecting the brain and nervous system, of all officers and interns, for the special use of the hospital.

4425. The department shall keep in its office a record showing the following facts concerning each patient in custody in the several institutions:

(a) Name, residence, sex, age, place of birth, occupation, and civil condition.

(b) The date of commitment, and the respective names and residences of

(1) The person who made the petition for commitment,

(2) The persons who signed the medical certificate, and

(3) The judge who made the order of commitment.

(c) The name of the institution in which he is confined, the date of his admission thereto, and whether he was brought from his home or from another institution. If he was brought from another institution, the record shall show also the name of that institution, by whom he was brought therefrom and his condition.

(d) If discharged, the date of discharge, to whose care he was committed, and whether recovered, improved, unimproved, or not

in need of commitment.

(e) If transferred, for what cause the transfer was made, and to what institution.

(f) If dead, the date and cause of death.

4427. When the department has reason to believe that any person held in custody as developmentally disabled is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the developmentally disabled, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

The department may at any time cause the patients of any county or city almshouse to be visited and examined, in order to ascertain if developmentally disabled persons are kept therein.

4428. When complaint is made to the department regarding the officers or management of any hospital or institution for the developmentally disabled, or regarding the management of any person detained therein or regarding any person held in custody, the department may, before making an examination regarding such complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall direct that a copy of the complaint be served on the authorities of the hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

4429. The department shall biennially report to the Legislature its acts and proceedings for the two years ending the June 30th last preceding, with such facts regarding the management of the institution for the developmentally disabled as it deems necessary for the information of the Legislature, including estimates of the amounts required for the use of such hospitals and the reasons therefor, and including annual reports for each state hospital.

4430. The department shall report to the Legislature the prospective needs for the care, custody, and treatment of developmentally disabled persons, together with its recommendations therefor. For the purpose of preventing overcrowding, it shall recommend such plans for the development of additional medical facilities as, in its judgment, will best meet the requirements of such persons.

4431. Charges made by the department for the care and treatment of each patient in a facility maintained by the department shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his determination of actual cost.

As used in this section, the terms "care" and "care and treatment" include care, treatment, support, maintenance, and other services rendered by the department to a patient in the state hospital or other facility maintained by or under the jurisdiction of the department.

PART 2. ADMINISTRATION OF STATE INSTITUTIONS FOR THE DEVELOPMENTALLY DISABLED

CHAPTER 1. JURISDICTION AND GENERAL GOVERNMENT

4440. The department has jurisdiction over the following institutions:

Agnews State Hospital.
Camarillo State Hospital.
Fairview State Hospital.
Napa State Hospital
Pacific State Hospital
Patton State Hospital
Porterville State Hospital.
Sonoma State Hospital.
Stockton State Hospital.

4441. Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the State Department of Developmental Services shall be governed by uniform rule and regulation of the State Department of Developmental Services and all of the provisions of this chapter shall apply to the conduct and management of such institutions.

4442. Each state hospital is a corporation.

4443. Each such corporation may acquire and hold in its corporate name by gift, grant, devise, or bequest property to be applied to the maintenance of the patients of the hospital and for the general use of the corporation.

4444. All lands necessary for the use of state hospitals except those acquired by gift, devise, or purchase, shall be acquired by condemnation as lands for other public uses are acquired.

The terms of every purchase shall be approved by the State Department of Developmental Services. No public street or road for railway or other purposes, except for hospital use, shall be opened through the lands of any state hospital, unless the Legislature by special enactment consents thereto.

4449. The State Department of Developmental Services has general control and direction of the property and concerns of each

state hospital. The department shall:

(a) Take care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

(b) Establish such bylaws, rules, and regulations as it deems necessary and expedient for regulating the duties of officers and employees of the hospital, and for its internal government, discipline, and management.

(c) Maintain an effective inspection of the hospital.

4450. The medical superintendent shall make triplicate estimates, in minute detail, as approved by the State Department of Developmental Services of such supplies, expenses, buildings, and improvements as are required for the best interests of the hospital, and for the improvement thereof and of the grounds and buildings connected therewith. These estimates shall be submitted to the State Department of Developmental Services which may revise them. The department shall certify that it has carefully examined the estimates, and that the supplies, expenses, buildings, and improvements contained in such estimates, as approved by it, are required for the best interests of the hospital. The department shall thereupon proceed to purchase such supplies, make such expenditures, or conduct such improvements or buildings in accordance with law.

4451. The state hospitals may manufacture supplies and materials necessary or required to be used in any of the state hospitals which can be economically manufactured therein. The necessary cost and expense of providing for and conducting the manufacture of such supplies and materials shall be paid in the same manner as other expenses of the hospitals. No hospital shall enter into or engage in manufacturing any supplies or materials unless permission for the same is obtained from the State Department of Developmental Services. If, at any time, it appears to the department that the manufacture of any article is not being or cannot be economically carried on at a state hospital, the department may suspend or stop the manufacture of such article, and on receipt of a certified copy of the order directing the suspension or stopping of such manufacture, by the medical superintendent, the hospital shall cease from manufacturing such article.

4452. All money belonging to the state and received by state hospitals from any source, except appropriations, shall, at the end of each month, be deposited in the State Treasury, to the credit of the General Fund. This section shall not apply to the funds known as the industrial or amusement funds or the "sheltered workshop funds."

4453. The state hospitals and the officers thereof shall make such financial statements to the Controller as the Controller requires.

4454. The authorities for the several hospitals shall furnish to the State Department of Developmental Services the facts mentioned in Section 4425 and such other obtainable facts as the department from time to time requires of them, with the opinion of the superintendent thereon, if requested. The superintendent or other

person in charge of a hospital shall, within 10 days after the admission of any person thereto, cause an abstract of the medical certificate and order on which such person was received and a list of all property, books, and papers of value found in the possession of or belonging to such person to be forwarded to the office of the department, and when a patient is discharged, transferred, or dies, the superintendent or person in charge shall within three days thereafter, send the information to the office of the department, in accordance with the form prescribed by it.

4455. The department may permit, subject to such conditions and regulations as it may impose, any religious or missionary corporation or society to erect a building on the grounds of any state hospital for the holding of religious services. Each such building when erected shall become the property of the state and shall be used exclusively for the benefit of the patients and employees of the state hospital.

4456. The department may establish and supervise under its rules and regulations training schools or coursed for employees of the department or of state institutions under its jurisdiction.

4457. Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital under the provisions of Section 6330, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026a of the Penal Code or Section 7361 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the county clerk of the county in which such trial or hearing is had must make out a statement of all costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him to and from the hospital, and costs of appeal, which statement shall be properly certified by a judge of the superior court of such county and sent to the State Department of Developmental Services for its approval. After such approval, the department shall cause the amount of such costs to be paid out of the money appropriated for the support of the state hospital, to the county treasurer of the county where such trial or hearing was had.

4458. The State Department of Developmental Services shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital.

4459. The State Department of Developmental Services shall investigate and examine all nonresident persons judicially committed to any state hospital and shall cause such persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the state in which they have legal residence. The department may defer such

action by reason of a patient's medical condition.

For the purpose of facilitating the prompt and humane return of such persons the State Department of Developmental Services may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of such person judicially committed to any state hospital in one state whose legal residence is in the other, and it may in such reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state home for the developmentally disabled of this state. When a resident is returned to this state pursuant to this chapter, he may be admitted as a voluntary patient to any institution of the department as designated by the Director of Developmental Services.

4460. In determining residence for purposes of being entitled to hospitalization in this state and for purposes of returning patients to the states of their residence, an adult person who is a resident of this state and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state shall be deemed to be a resident of this state. A minor is entitled to hospitalization in this state if the parent or guardian having custody of the minor is a resident of this state and has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state. Such parent or guardian shall be deemed a resident of this state for the purpose of this section, and such minor shall be eligible for hospitalization in this state as a developmentally disabled person. The eligibility of such minor for hospitalization in this state ceases when such parent or guardian ceases to be a resident of this state and such minor shall be transferred to the state of residence of the parent or guardian in accordance with the applicable provisions of this code. Time spent in a public institution for the care of the developmentally disabled or on leave of absence therefrom shall not be counted in determining the matter of residence in this or another state.

Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

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

The cost and expense incurred in effecting the transportation of such nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of delinquent, or mentally disordered, developmentally disabled, or incompetent persons upon vouchers approved by the State Board of Control.

4462. The State Department of Developmental Services, when it deems it necessary, may, under conditions prescribed by the director, transfer any patients of a state institution under its jurisdiction to another such institution. Transfers of patients of state hospitals shall be made in accordance with the provisions of Section 7300.

Transfer of a conservatee shall only be with the consent of the conservator.

The expense of any such transfer shall be paid from the moneys available by law for the support of the department or for the support of the institution from which the patient is transferred. Liability for the care, support, and maintenance of a patient so transferred in the institution to which he has been transferred shall be the same as if he had originally been committed to such institution.

4463. The Director of Developmental Services may authorize the transfer of persons from any institution within the department to any institution authorized by the federal government to receive such person.

4464. The State Department of Developmental Services shall send to the Department of Veterans Affairs whenever requested a list of all persons who have been patients for six months or more in each state institution within the jurisdiction of the State Department of Developmental Services and who are known to have served in the armed forces of the United States.

4465. The Director of Developmental Services may deposit any funds of patients in the possession of each hospital administrator of a state hospital in trust with the treasurer pursuant to Section 16305.3, Government Code, or, subject to the approval of the Department of Finance, may deposit such funds in interest-bearing bank accounts or invest and reinvest such funds in any of the securities which are described in Article 1 (commencing with Section 16430), Chapter 3, Part 2, Division 1, Title 2 of the Government Code and for the purposes of deposit or investment only may mingle the funds of any patient with the funds of other patients. The hospital administrator with the consent of the patient may deposit the interest or increment on the funds of a patient in the state hospital in a special fund for each state hospital, to be designated the "benefit fund," of which he shall be the trustee. He may, with the approval of the Director of Developmental Services, expend the moneys in any such fund for the education or entertainment of the patients of the institution.

On and after December 1, 1970, the funds of a patient in a state hospital or a patient on leave of absence from a state hospital shall not be deposited in interest-bearing bank accounts or invested and reinvested pursuant to this section except when authorized by the patient; any interest or increment accruing on the funds of a patient on leave of absence from a state hospital shall be deposited in his account; any interest or increment accruing on the funds of a patient in a state hospital shall be deposited in his account, unless such patient authorizes their deposit in the state hospital's "benefit fund."

Any state hospital charges for patient care against the funds of a patient in the possession of a hospital administrator or deposited pursuant to this section and which are used to pay for such care, shall be stated in an itemized bill to the patient.

4466. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Developmental Services dies, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon such superintendent by the owner of the funds or property or his legally appointed representative all money and other personal property of such decedent remaining in the custody or possession of the superintendent thereof shall be held by him for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of such decedent.

Upon the expiration of such one-year period, any money remaining unclaimed in the custody or possession of the superintendent shall be delivered by him to the State Treasurer for deposit in the Unclaimed Property Fund under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of such one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the superintendent, shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him to the State Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he deems it expedient to do so, the superintendent may accumulate the property of several decedents and sell the property in such lots as he may determine, provided that he makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the superintendent may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in subdivision (a), (b), or (c) hereof, shall be delivered by the superintendent to the State Controller for deposit in the State Treasury under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

4467. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Developmental Services

escapes, or is discharged or is on leave of absence from such institution, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, all money and other intangible personal property of such patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent thereof shall be held by him for a period of seven years from the date of such escape, discharge, or leave of absence, for the benefit of such patient or his successors in interest; provided, however, that unclaimed personal funds or property of minors on leave of absence may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of Developmental Services.

Upon the expiration of said seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of such escape, discharge, or parole:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of such patient;

(b) All tangible personal property other than money, remaining unclaimed in his custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him subject to the provisions of Section 4465 of this code, and subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If he deems it expedient to do so, the superintendent may accumulate the property of several patients and may sell the property in such lots as he may determine, provided that he makes a determination as to each patient's share of the proceeds;

If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

4468. Before any money or other personal property or documents are delivered to the State Treasurer, State Controller, or public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 4466, and before any personal property or documents are delivered to the public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 4467, notice of such

intended disposition shall be posted at least 30 days prior to the disposition, in a public place at the institution where the disposition is to be made, and a copy of such notice shall be mailed to the last known address of the owner or deceased owner, at least 30 days prior to such disposition. The notice prescribed by this section need not specifically describe each item of property to be disposed of.

4469. At the time of delivering any money or other personal property to the State Treasurer or State Controller under the provisions of Section 4126 or of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure, the superintendent shall deliver to the State Controller a schedule setting forth a statement and description of all money and other personal property delivered, and the name and last known address of the owner or deceased owner.

4470. When any personal property has been destroyed as provided in Section 4466 or 4467, no suit shall thereafter be maintained by any person against the state or any officer thereof for or on account of such property.

4471. All day hospitals and rehabilitation centers maintained by the State Department of Developmental Services shall be subject to the provisions of this code pertaining to the admission, transfer, and discharge of patients at the state hospitals, except that all admissions to such facilities shall be subject to the approval of the chief officer thereof. Charges for services rendered to patients at such facilities shall be determined pursuant to Section 4431. The liability for such charges shall be governed by the provisions of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 of this code and Chapter 4 (commencing with Section 7500) of Division 7 of this code.

4472. The state mental hospitals under the jurisdiction of the State Department of Developmental Services shall comply with the provisions contained in the California Food Sanitation Act, Article 1 (commencing with Section 28280) of Chapter 7 of Division 21 of the Health and Safety Code.

The state mental hospitals under the jurisdiction of the State Department of Developmental Services shall also comply with the provisions contained in the California Restaurant Act, Chapter 11 (commencing with Section 28520) of Division 21 of the Health and Safety Code.

Sanitation, health and hygiene standards which have been adopted by a city, county, or city and county which are more strict than those of the California Restaurant Act or the California Food Sanitation Act shall not be applicable to state mental hospitals which are under the jurisdiction of the State Department of Developmental Services.

CHAPTER 2. BOARDS OF TRUSTEES AND OTHER ADVISORY BOARDS

4475. Each state hospital under the jurisdiction of the State

Department of Developmental Services shall have a hospital advisory board of seven members appointed by the Governor from a list of nominations submitted to him by the boards of supervisors of counties within each hospital's designated service area. If a state hospital provides services for both the mentally disordered and the developmentally disabled, there shall be a separate advisory board for the program provided the mentally disordered and a separate board for the program provided the developmentally disabled. To the extent feasible, an advisory board serving a hospital for the developmentally disabled shall consist of two relatives of developmentally disabled persons who are patients in that hospital, three representatives of professional disciplines who are not employees of the state hospital system, but who are serving the developmentally disabled, and two representatives of the general public who have demonstrated an interest in services to the developmentally disabled.

Of the members first appointed after January 1, 1976, one shall be appointed for a term of two years, and one for three years. Thereafter, each appointment shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

Notwithstanding any provision of this section, members serving on the hospital advisory board on January 1, 1976, may continue to serve on the board until the expiration of their term. The Legislature intends that changes in the composition of the board required by legislation operative on such date shall apply only to subsequent vacancies on the board.

4476. No person shall be eligible for appointment to a hospital advisory board if he is a Member of the Legislature or an elective state officer, and if he becomes such after his appointment his office shall be vacated and a new appointment made. If any appointee fails to attend three consecutive regular meetings of the board, unless he is ill or absent from the state, his office becomes vacant, and the board, by resolution, shall so declare, and shall forthwith transmit a certified copy of such resolution to the Governor.

4477. The advisory boards of the several state hospitals are advisory to the State Department of Developmental Services and the Legislature with power of visitation and advice with respect to the conduct of the hospitals and coordination with community mental health programs or regional programs for the developmentally disabled. The members of the boards shall serve without compensation other than necessary expenses incurred in the performance of duty. They shall organize and elect a chairman. They shall meet at least once every three months and at such other times as they are called by the chairman, by the medical director, by the head of the department or a majority of the board. No expenses shall be allowed except in connection with meetings so held.

The advisory board or boards of each state hospital shall make a

written report on its activities, findings and recommendations for transmission through the State Department of Developmental Services to each regular session of the Legislature. The department shall transmit the reports along with their suggestions, comments and recommendations concerning the reports to the Legislature.

4478. (a) The chairman of a hospital advisory board advising a hospital for the developmentally disabled shall meet annually with the hospital director, the regional center directors, and the area board chairmen representing areas within the hospital's service area, as defined in Division 4.5 (commencing with Section 4500).

(b) The chairmen shall be allowed necessary expenses incurred in attending such meetings.

(c) It is the intent of the Legislature that the department assist the development of annual regional meetings required by this section.

CHAPTER 3. OFFICERS AND EMPLOYEES

4480. As used in this article, "officers" of a state hospital means:

(a) Clinical director.

(b) Hospital administrator.

(c) Hospital director.

4481. The Director of Developmental Services shall appoint and define the duties, subject to the laws governing civil service, of the clinical director and the hospital administrator for each state hospital. The director shall appoint either the clinical director or the hospital administrator to be the hospital director.

The director shall appoint a program director for each program at a state hospital. In each hospital for the developmentally disabled, where the clinical director is not a licensed physician, the director shall appoint a medical program director.

4482. The Director of the State Department of Developmental Services shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals.

4483. Salaries of resident and other officers and wages of employees shall be included in the budget estimates of, and paid in the same manner as other expenses of, the state hospitals.

4484. The primary purpose of a state hospital is the medical and nursing care of patients who are developmentally disabled. The efforts and direction of the officers and employees of each state hospital shall be directed to this end.

4485. Subject to the rules and regulations established by the department, and under the supervision of the hospital director when the hospital director is the hospital administrator, the clinical director of each state hospital shall be responsible for the planning, development, direction, management, supervision, and evaluation of all patient services, and of the supervision of research and clinical training. In each hospital for the developmentally disabled, where the clinical director is not a licensed physician, the medical program

director shall, under the general supervision of the clinical director, be responsible for the planning, development, and supervision of all medical services for patients in the hospital.

4486. Subject to the rules and regulations established by the department, under the supervision of the hospital director when the hospital director is the clinical director, the hospital administrator shall be responsible for the planning, development, direction, management and supervision of all administrative and supportive services in the hospital facility. Such services include, but are not limited to:

(a) All administrative functions such as personnel, accounting, budgeting, and patients' accounts.

(b) All life-support functions such as food services, facility maintenance and patient supplies.

(c) All other business and security functions.

It shall be the responsibility of the hospital administrator to provide support services, as specified in this section, within available resources, to all hospital treatment programs.

4487. The hospital director is the chief executive officer of the hospital and is responsible for all hospital operations. If the hospital director is the clinical director, then the hospital administrator is responsible to him; if the hospital director is the hospital administrator, then the clinical director is responsible to him.

4488. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of Developmental Services, he shall appoint, as provided in Section 4481, a clinical director, a hospital administrator, a hospital director, a medical program director, and program directors.

A hospital administrator shall be a college graduate preferably with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public mental hospital administrators.

A clinical director for a state hospital for the developmentally disabled shall be a person who is a physician, psychologist, registered nurse, clinical social worker, physical therapist or psychiatric technician, and licensed as such pursuant to the Business and Professions Code. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

The hospital director shall be either the hospital administrator or the clinical director. He shall be selected based on his overall knowledge of the hospital, its programs, and its relationship to its community, and on his demonstrated abilities to administer a large facility.

The standards for the professional qualifications of a program director shall be established by the Director of Developmental Services for each patient program. The director shall not adopt any regulations which prohibit a licensed psychiatrist, psychologist,

psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs which may only be performed by a licensed physician.

A medical program director for a state hospital for the developmentally disabled shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and who shall be a qualified specialist in a branch of medicine which includes diseases affecting the brain and nervous system, and the care, treatment, and habilitation of the developmentally disabled.

4489. The hospital director is responsible for the overall management of the hospital. In his absence one of the other hospital officers or in the absence of both officers a program director shall be designated to perform his duties and assume his responsibilities.

4490. At the request of one or more employees of any institution within the department, the department may, at its option, provide, within the grounds of the institution, meals and subsistence for employees who do not reside within the institution, or living facilities, meals and subsistence for employees who reside within the institution. The department may make a reasonable charge for all facilities taken by or furnished to employees, to be determined by the State Board of Control, and to be deducted from the salary of the employee. No employee shall be compelled to eat his meals at the institution, nor shall he be charged for meals or facilities not furnished to or taken by him. No employee shall be discriminated against in any manner whatsoever because he elects to eat his meals outside the institution grounds.

The provisions of this section apply only to those employees who are not officers and who receive gross salaries as specified by the salary scales of the State Personnel Board, and do not apply to those employees who are officers of an institution or who receive a cash salary plus maintenance for self and family as provided by the salary scales of the State Personnel Board.

4491. The hospital administrator shall be responsible for preserving the peace in the hospital buildings and grounds and may arrest or cause the arrest and appearance before the nearest magistrate for examination, of all persons who attempt to commit or have committed a public offense thereon.

4492. The hospital director may establish rules and regulations not inconsistent with law or departmental regulations, concerning the care and treatment of patients, research, clinical training, and for the government of the hospital buildings and grounds. Any person who knowingly or willfully violates such rules and regulations may, upon the order of either of the hospital officers, be ejected from the

buildings and premises of the hospital.

4493. The hospital administrator of each state hospital may designate, in writing, as a police officer, one or more of the bona fide employees of the hospital. The hospital administrator and each such police officer have the powers and authority conferred by law upon peace officers listed in Section 830.4 of the Penal Code. Such police officers shall receive no compensation as such and the additional duties arising therefrom shall become a part of the duties of their regular positions. When and as directed by the hospital administrator, such police officers shall enforce the rules and regulations of the hospital, preserve peace and order on the premises thereof, and protect and preserve the property of the state.

4494. The Director of Developmental Services may set aside and designate any space on the grounds of any of the institutions under the jurisdiction of the department that is not needed for other authorized purposes, to enable such institution to establish and maintain therein a store or canteen for the sale to or for the benefit of patients of the institution of candies, cigarettes, sundries and other articles. The stores shall be conducted subject to the rules and regulations of the department and the rental, utility and service charges shall be fixed as will reimburse the institutions for the cost thereof. The stores when conducted under the direction of a hospital administrator shall be operated on a nonprofit basis but any profits derived shall be deposited in the benefit fund of each such institution as set forth in Section 4465.

Before any store is authorized or established, the Director of Developmental Services shall first determine that such facilities are not being furnished adequately by private enterprise in the community where it is proposed to locate the store, and may hold public hearings or cause surveys to be made, to determine the same.

The Director of Developmental Services may rent such space to private individuals, for the maintenance of a store or canteen at any of the said institutions upon such terms and subject to such regulations as are approved by the Department of General Services, in accordance with the provisions of Section 13109 of the Government Code. The terms imposed shall provide that the rental, utility and service charges to be paid shall be fixed so as to reimburse the institution for the cost thereof and any additional charges required to be paid shall be deposited in the benefit fund of such institution as set forth in Section 4465.

4495. Wherever the term "superintendent", "medical superintendent", or "superintendent or medical director" appears, the term shall be deemed to mean clinical director, except in Sections 4450, 4466, 4467, 4469, 7281, and 7289, where the term shall be deemed to mean hospital administrator.

Wherever the term "medical director" appears, the term shall be deemed to mean clinical director.

4496. Subject to rules and regulations adopted by the department, the hospital director may establish a sheltered

workshop at a state hospital to provide patients with remunerative work performed in a setting which simulates that of industry and is performed in such a manner as to meet standards of industrial quality. The workshop shall be so operated as to provide the treatment staff with a realistic atmosphere for assessing patients' capabilities in work settings, and to provide opportunities to strengthen and expand patient interests and aptitudes.

4497. At each state hospital at which there is established a sheltered workshop, there shall be a sheltered workshop fund administered by the clinical director. The fund shall be used for the purchase of materials, for the purchase or rental of equipment needed in the manufacturing, fabricating, or assembly of products, for the payment of remuneration to patients engaged in work at the workshop, and for the payment of such other costs of the operation of the workshop as may be directed by the medical director. The clinical director may cause the raw materials, goods in process, finished products, and equipment necessary for the production thereof to be insured against any and all risks of loss, subject to the approval of the Department of General Services. The costs of such insurance shall be paid from the sheltered workshop fund.

All money received from the manufacture, fabrication, assembly, or distribution of products at any state hospital sheltered workshop shall be deposited and credited to the hospital's sheltered workshop fund.

4498. Each state hospital shall, prior to the discharge of any patient who was placed in the facility under a county Short-Doyle plan, prepare a written recommended aftercare plan which shall be transmitted to the local director of mental health services in the county of the patient's placement.

Notwithstanding any other provision of law, such aftercare plan shall specify the following:

(a) Diagnoses;
(b) Treatment initiated;
(c) Medications and their dosage schedules;
(d) Date of discharge;
(e) Location of community placement;
(f) Plan for continuing treatment; and
(g) List of referrals indicated, including, but not limited to:
(1) Public social services.
(2) Legal aid.
(3) Educational services.
(4) Vocational services.
(5) Medical treatment other than mental health services.

SEC. 550. Division 4.5 (commencing with Section 4500) is added to the Welfare and Institutions Code, to read:

DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED

CHAPTER 1. GENERAL PROVISIONS

4500. This division shall be known and may be cited as the Lanterman Developmental Disabilities Services Act.

4501. The State of California accepts a responsibility for its developmentally disabled citizens and an obligation to them which it must discharge. Affecting hundreds of thousands of children and adults directly, and having an important impact on the lives of their families, neighbors, and whole communities, developmental disabilities present social, medical, economic, and legal problems of extreme importance.

The complexities of providing services to developmentally disabled persons require the coordinated services of many state departments and community agencies to insure that no gaps occur in communication or provision of services.

Services should be planned and provided as a part of a continuum. A pattern of facilities and services should be established which is sufficiently complete to meet the needs of each person with developmental disabilities, regardless of age or degree of handicap, and at each stage of life. To the maximum extent feasible, services should be available throughout the state to prevent the dislocation of persons with developmental disabilities from their home communities.

Services should be available to enable persons with developmental disabilities to approximate the pattern of everyday living available to nondisabled people of the same age.

The Legislature finds that the mere existence or the delivery of services is, in itself, insufficient evidence of program effectiveness. It is the intent of the Legislature that agencies serving the developmentally disabled shall produce evidence that their services have resulted in more independent, productive, and normal lives for the persons served. The Legislature declares its intent to monitor program results through continued legislative oversight and review of request for appropriations to support developmental disabilities programs.

4502. Persons with developmental disabilities have the same legal rights and responsibilities guaranteed all other individuals by the Federal Constitution and laws and the Constitution and laws of the State of California. No otherwise qualified person by reason of having a developmental disability shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, which receives public funds.

It is the intent of the Legislature that persons with developmental disabilities shall have rights including, but not limited to, the following:

(a) A right to treatment and habilitation services. Treatment and habilitation services should foster the developmental potential of the person. Such services shall protect the personal liberty of the individual and shall be provided with the least restrictive conditions necessary to achieve the purposes of treatment.

(b) A right to dignity, privacy, and humane care.

(c) A right to participate in an appropriate program of publicly supported education, regardless of degree of handicap.

(d) A right to prompt medical care and treatment.

(e) A right to religious freedom and practice.

(f) A right to social interaction and participation in community activities.

(g) A right to physical exercise and recreational opportunities.

(h) A right to be free from harm, including unnecessary physical restraint, or isolation, excessive medication, abuse, or neglect.

(i) A right to be free from hazardous procedures.

4503. Each developmentally disabled person who has been admitted or committed to a state hospital, community care facility as defined in Section 1504 of the Health and Safety Code, or a health facility as defined in Section 1250 of the Health and Safety Code shall have the following rights, a list of which shall be prominently posted in English and Spanish in all facilities providing such services and otherwise brought to his attention by such additional means as the Director of Developmental Services may designate by regulation:

(a) To wear his own clothes, to keep and use his own personal possessions including his toilet articles, and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse electroconvulsive therapy.

(g) To refuse behavior modification techniques which cause pain or trauma.

(h) To refuse psychosurgery notwithstanding the provisions of Section 5325, 5326, and 5326.3. Psychosurgery means those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for any of the following purposes:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, action, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions, or behavior

when the abnormality is not an established cause for those thoughts, feelings, action, or behavior.

(i) Other rights, as specified by regulation.

4504. The professional person in charge of the facility or his designee may, for good cause, deny a person any of the rights specified under subdivisions (a), (b), (c), (d), and (e) of Section 4503. To ensure that these rights are denied only for good cause, the Director of Developmental Services shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record and shall be reported to the Director of Developmental Services on a quarterly basis. The content of these records shall enable the Director of Developmental Services to identify individual treatment records, if necessary, for future analysis and investigation. These reports shall be available, upon request, to Members of the Legislature. Information pertaining to denial of rights contained in the person's treatment record shall be made available, on request, to the person, his attorney, his parents, his conservator or guardian, the State Department of Developmental Services, and Members of the Legislature.

4505. For the purposes of subdivisions (f) and (g) of Section 4503, if the patient is a minor age 15 years of over, the right to refuse may be exercised either by the minor or his parent, guardian, conservator, or other person entitled to his custody.

If the patient or his parent, guardian, conservator, or other person responsible for his custody do not refuse the forms of treatment or behavior modification described in subdivisions (f) and (g) of Section 4503, such treatment and behavior modification may be provided only after review and approval by a peer review committee. The Director of Developmental Services shall, by March 1, 1977, adopt regulations establishing peer review procedures for this purpose.

4506. It is the intent of the Legislature that the State Department of Developmental Services adopt staffing standards in state hospitals serving persons with developmental disabilities which will assure the maximum personal growth and development of those served. By March 1, 1977, the department shall submit a report to the Legislature on the results of a pilot study of the staffing standards known as Program Review Unit Number 72, and shall include recommendations regarding modifications to such standards or similar standards developed by the department.

The Legislature shall review and approve or disapprove staffing standards by May 1, 1977.

The department shall adopt, and to the extent funds are available, begin implementation of the approved standards in the 1977–78 fiscal year.

It is further the intent of the Legislature that the adopted standards be fully implemented by June 30, 1980.

4507. Developmental disabilities alone shall not constitute

sufficient justification for judicial commitment. Instead, persons with developmental disabilities shall receive services pursuant to this division. Persons who constitute a danger to themselves or others may be judicially committed if evidence of such danger is proven in court.

4508. Developmentally disabled persons may be released from state hospitals for provisional placement, with parental consent in the case of a minor or with the consent of an adult developmentally disabled person or his guardian or conservator, not to exceed six months, and shall be referred to a regional center for services pursuant to this division. Any person placed pursuant to this section shall have an automatic right of return to the state hospital during the period of provisional placement.

4509. By January 1, 1977, the Director of Developmental Services shall compile a roster of all persons who are in the custody of a state hospital, or on leave therefrom, pursuant to an order of judicial commitment as a mentally retarded person made prior to January 1, 1976. The appropriate regional center shall be given a copy of the names and pertinent records of the judicially committed retarded persons within its jurisdiction, and shall investigate the need and propriety of further judicial commitment of such persons under the provisions of Sections 6500 and 6500.1.

Each regional center shall complete all investigations required by this section within two years after the roster is submitted. In conducting its investigations, each regional center shall solicit information, advice, and recommendations of state hospital personnel familiar with the person whose needs are being evaluated.

For those persons found by a regional center to no longer require state hospital care, the regional center shall immediately prepare an individual program plan pursuant to Sections 4646 and 4648 for the provision of appropriate alternative services outside the state hospital.

If such alternative is not immediately available, the regional center shall give continuing high priority to the location and development of such services. As part of the program budget submission required in Section 4776, the regional director shall include a report specifying:

(a) The number of state hospital residents for whom a community alternative is deemed more suitable than a state hospital.

(b) The number of residents for whom no placement is made because of a lack of community services.

(c) The number, type, nature, and cost of community services that would be necessary in order for placement to occur.

For those persons found to be in continued need of state hospital care, the regional center shall either admit such person as a voluntary resident of the state hospital, or shall file a petition seeking the commitment of those persons for whom commitment is believed to be appropriate.

4510. Any developmentally disabled person residing in a state

hospital who has not been judicially committed shall be considered a nonprotesting resident of a state hospital or a voluntary resident if the person has given informed consent to his admission.

Developmentally disabled, nonprotesting or voluntary residents may leave a state hospital at any time after they, or their parent or legal guardian or conservator, request a discharge and complete state hospital discharge procedures.

The state hospital's discharge procedures for any resident may require an assessment, by an appropriate regional center, of the resident's condition, if in the opinion of the medical director of the state hospital immediate release of the resident may result in serious personal harm to the resident.

Whenever the state hospital discharge procedure for a resident requires assessment by a regional center, the resident shall continue to reside in the state hospital until such assessment is completed. The regional center shall complete its assessment of the condition of such persons within 14 days of receiving a request for assessment. In conducting its assessment, the regional center shall solicit information, advice, and recommendations of state hospital personnel familiar with medical, social and other needs of the person being assessed, and the person's parents or legal guardian or conservator.

For those persons found by a regional center to no longer require state hospital care, the person shall be released, and, if necessary, the regional center shall immediately prepare and administer an individual program plan pursuant to Sections 4646 and 4648 for the provision of appropriate alternative services outside the state hospital.

For those persons found to be in continued need of state hospital care, the regional center shall either readmit such persons as voluntary residents of the state hospital, pursuant to the provisions of Section 4803, or shall file a petition seeking commitment to the State Department of Developmental Services of those persons for whom commitment is believed to be more appropriate than voluntary placement.

4511. Whenever a regional center files a petition for commitment of a person pursuant to the provisions of Section 4510, judicial review shall be in the superior court for the county in which the state hospital is located. The person shall be informed of his right to counsel by a member of the staff of the state hospital, and by the court; and if he does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent him in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for commitment is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of an evidentiary hearing in the matter, to the parent, guardian, or conservator of the person and to the director of the appropriate regional center and the state hospital.

Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the person or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice have been mailed to the person's parent, guardian, or conservator and to the director of the appropriate regional center and state hospital.

If the court finds (a) that the person requesting release or for whom release is requested is not developmentally disabled, or (b) that the person is developmentally disabled and is able to provide safely for his basic personal needs for food, shelter, and clothing, and is able to protect himself from ordinary threats to life, health or safety, he shall be immediately released.

Notwithstanding the provisions of Section 6500.1, if the court finds that the person is developmentally disabled and that he is not capable of providing for his basic personal needs for food, clothing and shelter, and is not able to protect himself from ordinary threats to life, health or safety, and is not willing to accept suitable care and treatment on a voluntary basis, the person may be committed to the State Department of Developmental Services for suitable care and treatment.

For the purposes of this section, the legal status of minority does not, in itself, render a person incapable of providing for his basic personal needs for food, clothing, shelter and self-protection from ordinary threats to life, health or safety.

For the purposes of this section, suitable care and treatment is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services under this section may include placement in any state hospital, any licensed community care facility as defined in Section 1504 of the Health and Safety Code, or any health facility as defined in Section 1250 of the Health and Safety Code.

Commitment under this section shall be for a period not to exceed one year. The State Department of Developmental Services may petition for renewed commitments under this section if such petition is made to the superior court at least 30 days prior to the termination of existing commitment.

Nothing in this section shall be construed to prevent the voluntary admission of developmentally disabled persons to state hospitals pursuant to Section 4653 or involuntary commitment of dangerous persons under Section 6500.1.

If in any proceeding under this section, the court finds that the person is developmentally disabled and has no parent, guardian, or conservator, and is in need of a guardian or conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator for the developmentally disabled

person.

4512. As used in this part:

(a) "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

(b) "Services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

CHAPTER 2. STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

Article 1. Composition and Appointments

4520. The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that such programs are provided by hundreds of public and private state and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a State Council on Developmental Disabilities with authority independent of any single state service agency is needed and is hereby created.

4521. All references to "state council" in this part shall be references to the State Council on Developmental Disabilities.

(a) The state council shall consist of nine voting members. At least one voting member shall be a person with developmental disabilities. At least two voting members shall be parents or relatives of persons with mental retardation, of whom one such member shall be the parent of a resident of a state hospital and one such member shall be the parent of a person who is a resident of a community care facility.

In addition, one voting member shall represent persons with mental retardation, one voting member shall represent persons with cerebral palsy, one voting member shall represent persons with epilepsy, one voting member shall represent persons with autism, one voting member shall represent persons who are developmentally disabled for reasons attributable to conditions other than mental retardation, cerebral palsy, epilepsy, or autism, and one voting member shall represent the general public. Of the nine voting members, at least one shall be knowledgeable about public education for developmentally disabled persons.

(b) The Governor shall appoint two members who shall be nominated by the Speaker of the Assembly and two members who shall be nominated by the Senate Rules Committee. Prior to appointing the remaining five members, the Governor shall request and consider recommendations from organizations representing or providing services to persons who have developmental disabilities and shall give consideration to the various socioeconomic, ethnic, and geographic parts of the state.

(c) The Director of Developmental Services, the Director of Social Services, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the Director of Rehabilitation, or their designated representatives, shall serve as ex officio, nonvoting members of the state council. The County Supervisor's Association of California shall appoint one member to the state council, who shall serve as an ex officio, nonvoting member of the state council. The Organization of Area Boards shall appoint one member to the state council, who shall serve as an ex officio, nonvoting member of the state council. For the purposes of this chapter, the Organization of Area Boards is defined as a committee consisting of the respective chairpersons of the area boards on developmental disabilities established pursuant to Chapter 4 (commencing with Section 4570) of this part.

(d) Of the members appointed by the Governor, three shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. Subsequent members appointed by the Governor shall hold office for three years. In no event shall any member be appointed for more than two consecutive three-year terms.

4522. Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if such reappointment or replacement is in conformity with all of the criteria established in this chapter. Any individual presently serving on the existing state council may continue to serve beyond March 1, 1977, until a replacement is appointed, or 60 days, whichever comes first.

4523. Persons appointed to membership on the state council shall have demonstrated interest and leadership in human service activities.

Article 2. Conflict of Interest

4525. In order to prevent any potential conflicts of interest, voting members of the state council shall not be employed as providers of services to persons with a developmental disability, or be members of the governing board of any entity providing such service, when such service is funded in whole or in part with state funds.

Article 3. Location of State Council

4530. For administrative purposes only, the state council shall be attached to the State Department of Developmental Services. The department shall cooperate fully with the state council by rendering efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its mandated responsibilities.

The attachment of the state council to the department shall not limit the council's scope of concern to health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in Article 5 (commencing with Section 4540) of this chapter.

The administrative attachment of the state council to the department shall not be construed to interfere in any way with the provisions of Section 4552 requiring all personnel employed by the council to be solely responsible, organizationally and administratively, to the council.

Article 4. Organization

4535. The state council shall meet at least monthly, and, on call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public.

The state council shall, by majority vote of the voting members, elect its own chairperson from among the nine appointed members, and shall establish such committees as it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council.

The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians, professionals, or members of the general public to participate on state council committees.

On March 1, 1977, the existing State Developmental Disabilities Planning and Advisory Council shall terminate and all of its records and documents shall be transferred to the new State Council on

Developmental Disabilities established by this chapter.

Article 5. State Council Functions

4540. In order to comply with the intent and requirements of this division and Federal Public Law 94-103, the state council, in addition to any other responsibilities established under this division and to the extent that resources are available, shall:

(a) Be the "state planning council" responsible for developing the "California Developmental Disabilities State Plan," monitoring and evaluating the implementation of such plan, reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting such reports as the Secretary of Health, Education and Welfare may reasonably request.

(b) Be the official designated agency for purposes of allocating all federal funds allotted to the state under the provisions of Public Law 94-103, and shall apportion these funds among agencies and area developmental disabilities boards in compliance with Sections 4550 and 4611, and shall apportion no more than 30 percent of the federal funds allotted to the state under the provisions of Public Law 94-103 to the Program Development Fund established pursuant to Section 4677.

(c) Evaluate and issue public reports on the programs identified in the state plan.

(d) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities, including the State Departments of Education, Rehabilitation, Developmental Services, Transportation, Social Services, Employment Development, Youth Authority, Corrections, and Parks and Recreation. Such review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.

(e) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of the provisions of this division of the Welfare and Institutions Code to the Governor and the Legislature.

(f) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of the provisions of this division.

(g) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.

(h) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.

(i) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(j) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. Such investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.

Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the approval of individual grants, nor in the financial management and accounting of funds. These activities shall be performed by appropriate agencies designated in the state plan.

Article 6. Review of State Council

4545. Every three years the Legislative Analyst's office shall conduct an evaluation of the costs and effectiveness of the activities of the state council and shall report its findings to the Legislature.

Article 7. State Council Costs and Support Services

4550. No more than 25 percent of federal developmental disabilities funds received by the state under the provisions of Public Law 94-103 shall be allotted in any one year for purposes of supporting the state council's operating costs.

The state council's operating costs shall include honoraria and actual and necessary expenses for council members, and administrative, professional, and secretarial support services.

Each member of the state council shall receive fifty dollars ($50) per day for each full day of work performed directly related to council business, not to exceed 50 days in any fiscal year, and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division.

4551. Within the limit of funds allotted for such purposes, the state council chairperson, with the concurrence of a majority of the state council, shall appoint an executive director, and such other staff to the state council as it may require.

The executive director shall be paid a salary which is comparable to the director of other state boards and commissions with similar responsibilities. The executive director shall be exempt from civil service. All other state council employees shall be appointed by the executive director, with the approval of the state council.

4552. The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. In order to comply with Federal Public Law 94-103 regulations, all personnel employed by the state council shall be

solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all such personnel.

4553. The state council may request information, records, and documents from any other agency of state government, except for confidential patient records. All such agencies shall comply with the reasonable requests of the state council.

4554. The state council may request area boards on developmental disabilities to assist the state council in carrying out any of the state council's responsibilities in the various regions of the state.

CHAPTER 3. CALIFORNIA DEVELOPMENTAL DISABILITIES STATE PLAN

4560. The Legislature finds that whenever multiple, uncoordinated, and duplicative planning activities are conducted by different state agencies on behalf of persons with developmental disabilities, the result is confusion of responsibilities, a lack of systemwide priorities, and failure to make the most appropriate use of all federal, state, and local funds and programs.

4561. In order to integrate all relevant state planning and budgeting, and in order to comply with federal requirements, a California Developmental Disabilities State Plan shall be prepared by the state council each year. All references in this part to "state plan" shall be references to the California Developmental Disabilities State Plan.

The state plan shall include, but not be limited to, the following parts:

(a) A part describing existing publicly funded services for persons with developmental disabilities within the state, and within each area of the state, including the numbers and types of persons receiving such services, the amount and sources of funding of such services, the agencies responsible for administration, and the effectiveness of such services in helping developmentally disabled persons live more independent, productive, and normal lives.

(b) A part recommending priorities for program and facility development or expansion. Such recommendations shall include statements of justification of need, specific objectives of programs to be developed, amount and sources of funding, timing and agencies responsible for implementation. The priorities for program and facility development or expansion contained in this division shall include specific recommendations with regard to the findings of regional centers resulting from their investigations carried out pursuant to Section 4509.

(c) A part listing the priority recommendations for program termination, modification, or reduction. Such recommendations shall include statements of justification or lack of need, or evidence of program ineffectiveness, or evidence of discrimination against

persons with developmental disabilities, or evidence of unnecessarily high costs in relation to program results. Recommendations for program termination, modification, or reduction shall also include a statement of the amount and sources of funds to be saved or reallocated to other programs and the timing and agencies responsible for implementation.

(d) A part describing the procedures that shall be used for evaluating all programs identified in the state plan, the costs and sources of funds for such evaluation, and the agencies responsible for evaluation.

(e) A part describing the administrative responsibility of state agencies involved in implementing all aspects of the state plan and a description of the amount and sources of funds required for such administration.

(f) A part describing the amount of federal funds, from Public Law 94-103, that shall be allotted to the state council, area boards, and state and nonstate agencies for services, planning, advocacy, construction, and other approved purposes as defined in federal law and regulations

4562. After January 1, 1978, and each year thereafter, all plans prepared by any agency of state government, which include specific program elements relating to services for persons with developmental disabilities, shall separately identify and describe each such program element as to its suitability for inclusion in the state plan. Program elements accepted for inclusion in the state plan shall be given a priority rating.

Any program elements not accepted for inclusion in the state plan shall be appended to the state plan with a written statement explaining the reasons why such program elements were excluded. Before excluding any program element contained in any state agency's plan, the agency shall be informed of the state council's intentions and shall be given an opportunity to confer with the state council.

4563. Within the limit of funds made available, programs and program elements contained in the state plan shall be considered to be endorsed by the state council and acceptable for financial support through state or federal funding sources.

Program elements excluded from the state plan shall be considered to have no state council endorsement for financial support.

4564. The state council shall conduct open hearings on the state plan and related budgetary issues prior to submission of the plan pursuant to Section 4565. Such hearings shall be conducted during the month of September of each year in order to coincide with the preparation of the annual Governor's Budget.

4565. The state plan shall be given to the Governor, the Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, the Legislature, and to the chairpersons of all area boards for review and comment prior to its submission by the chairperson

of the state council to the Secretary of Health, Education, and Welfare.

Copies of the state plan shall be provided, no later than November 1 of each year, to the Director of Finance and to the Legislature for guidance in the development of the Governor's Budget and legislative review of the budget, and for guidance in other legislation pertaining to programs for persons with developmental disabilities.

4566. The state plan shall, in addition to the requirements established herein, comply in substance and format with requests of the Secretary of Health, Education, and Welfare.

4567. All state agencies shall cooperate with the reasonable requests of the state council by providing information to the state council in the preparation of the state plan. Any expenditures incurred by state agencies in providing such assistance to the state council shall be identified in the state plan and in the state agency's annual budget. Such expenditures may be funded in whole or in part by state funds appropriated as the required state share of the developmental disabilities program, or by federal funds from Public Law 94-103, or both, when the state council allots funds for such purposes in the state plan.

4568. In no event shall the state council allot federal funds from Public Law 94-103 to state agencies to replace state funds currently allocated to such agencies for the purpose of planning programs for persons with developmental disabilities.

CHAPTER 4. AREA BOARDS ON DEVELOPMENTAL DISABILITIES

Article 1. General

4570. Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the legal, civil, and service rights of persons with developmental disabilities will not be adequately quaranteed throughout the state unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities.

4571. The area boards in existence as of January 1, 1976, shall continue to exist, within the same geographic regions of the state after January 1, 1977, but shall thereafter be constituted and shall operate according to the provisions of this division.

4572. The Director of Developmental Services, in cooperation with the State Council on Developmental Disabilities, shall, by January 1, 1978, and periodically thereafter, conduct a thorough review of the geographic boundaries served by area boards to determine whether additional area boards should be established to more effectively implement the provisions of this division. In conducting such review, the director shall seek the advice of the state council, area boards, and consumers of services.

Article 2. Composition and Appointments

4575. After January 1, 1977, area boards shall be comprised, as follows:

(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the governing body of each county, and five voting members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.

Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In counties with more than 100,000 population, no member shall serve more than two consecutive three-year terms.

4576. The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(a) Persons with developmental disabilities or the parents or legal guardians of such persons—50 percent;

(b) Representatives of the general public—50 percent.

4577. Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to such persons.

In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

4578. In order to prevent any potential conflicts of interest, voting members of area boards shall not be employed as providers of service to persons with developmental disabilities, or be members of the governing board of any entity providing such service, when such service is funded in whole or in part with state funds.

4579. The Governor shall give consideration to the relative populations of the counties within the area in selecting his appointees to the area boards.

Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on an existing area board, provided any such reappointment is in conformity to all of the criteria established in this chapter. Any individual presently serving on an existing area board may continue to serve beyond January 1,

1977, until a replacement is appointed, or 60 days, whichever comes first.

All members of the area board shall be residents of the area.

Article 3. Organization

4585. The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board or of committees established by the board.

Each area board shall meet at least quarterly and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

4586. Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members, and shall establish such committees as it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.

An area board shall appoint a professional advisory committee composed of professional persons serving individuals with developmental disabilities. The professional advisory committee shall provide advice, guidance, recommendations, and technical assistance to the area board in order to assist the area board in carrying out its mandated functions enumerated in Article 4 (commencing with Section 4590) of this chapter. Such professional advisory committee shall designate one of its members to serve as an ex officio member of the area board. An area board may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians, professionals or members of the general public to participate on area board committees.

Article 4. Area Board Functions

4590. Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.

The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area.

The area board shall identify any evidence of the denial of such rights; shall inform the appropriate local, state, or federal officials of their findings, and shall assist such officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

4591. Area boards shall conduct or cause to be conducted public

information programs for professional groups and for the general public, to increase professional and public awareness of prevention and habilitation programs, and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

4592. Area boards shall encourage and assist in the establishment of independent citizen advocacy organizations that provide practical personal services to individuals with developmental disabilities. Such citizen advocacy organizations shall be established for the purpose of recruiting, training, and assigning volunteers to work with individuals with developmental disabilities to assist them in using community services and participating in community activities.

Area boards shall recommend to the state council independent citizen advocacy organizations that shall be considered for federal funding under the provisions of Public Law 94-103.

4593. To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities to determine if such programs are meeting their obligations under local, state, and federal statutes. If any noncompliance is determined, the area board shall inform, in writing, the director and the managing board of such noncomplying agency of its findings.

If the agency fails to alter its policies in order to comply with the law within 30 days and after all other informal efforts to assist the agency have been exhausted, the area board may conduct a public hearing to receive testimony on the issue of the agency's noncompliance.

At least 30 days notice of an area board's public hearing on noncompliance shall be given to the general public, to the agency, and to the state, federal, or local authorities responsible for allocating funds to the agency. The public hearing shall be conducted informally for the purpose of finding a solution, and all parties shall have an opportunity to be represented and to testify but shall be recorded.

If the problem has not been resolved within 30 days following the public hearing, the area board may notify the state council and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council.

4594. In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about problems within the service delivery system in the region. In enacting this chapter, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for developmentally disabled persons. Area boards may call upon such agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, such agencies

shall provide information requested by the area boards and shall cooperate fully in complying with all reasonable requests for assistance.

4595. The executive director of the state council shall review the proceedings of the public hearing under Section 4593 and may conduct additional factfinding investigations. The executive director shall report his findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

The state council shall review the report of the executive director and shall take such action as it deems necessary to resolve the problem. If the council authorizes the area board to initiate legal action, the state council shall make available to the area board legal assistance through the legal services provisions of Public Law 94-103.

The state plan shall include an annual allotment of federal funds from Public Law 94-103 to be utilized for such legal assistance to area boards.

4596. Area boards shall remain informed about the quality of services in the area and shall inform appropriate state and local licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board.

If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate law enforcement agencies about the alleged misconduct.

4597. Area boards shall assist the state council in the preparation of the state plan by submitting such information concerning the area's services, needs, and priorities as may be requested by the state council. Planning information requested by the state council shall be submitted at such time as requested by the state council. The format for such planning information shall be developed through consultation with the Organization of Area Boards.

4598. The Organization of Area Boards shall consist of the respective chairpersons of the individual boards established under the provisions of this chapter. The purposes of this organization shall include activities to resolve common problems, improve coordination, exchange information between areas, and provide advice and recommendations to state agencies, the Legislature, and the state council.

4599. Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies, and consumer organizations in the area. Area boards shall comply with the reasonable requests of such groups and may request the assistance of such groups in carrying out area board responsibilities.

The governing body of any county within the area may request the

area board to study or investigate programs in the county, for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.

4600. Each area board may, but shall not be required to, adopt an areawide developmental disabilities plan. The purpose of such area plans shall be to organize in one document information about service needs priorities, program objectives, and the availability and quality of programs for persons with developmental disabilities in the area. If an area plan is deemed necessary, such plan shall be made available to be used by the area board and its committees, other organizations and planning bodies in the area, and the state council. If an area plan is not deemed necessary, the area board shall develop a list and description of local needs and priorities. Such list and description shall be submitted to the state council pursuant to Section 4597 and shall be disseminated to other organizations and planning bodies in the area.

4601. Area boards shall encourage the development of needed services of good quality and shall coordinate such developments to prevent duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs for persons with developmental disabilities or the establishment of new programs in an area, state agencies shall consult with the area board regarding the appropriateness of such program developments. This provision shall not apply to state funds for public education allocated on an apportionment basis pursuant to state law.

Article 5. Review of Area Boards

4605. On January 1, 1978, and each year thereafter, each area board shall submit to the state council a summary of its activities and accomplishments in such form as shall be required by the state council.

4606. Every three years the Legislative Analyst shall conduct an evaluation of the costs and effectiveness of the activities of area boards and shall report his findings to the Legislature.

Article 6. Area Board Costs and Support Services

4610. The Legislature finds that the advocacy, coordinating, appeals, and other related functions of area boards cannot be effectively provided unless area boards have staff support services from personnel directly responsible and accountable only to the area board.

In order to prevent potential conflicts of interest, personnel employed by area boards shall not be state employees. If any personnel employed by area boards are supported by county funds, such employees shall be solely accountable to the area board for

administrative direction.

4611. Each year each area board shall present for consideration by the state council a proposal for funds to support the activities of the area board. The state council shall review all area board proposals and shall include in the state plan the amount of federal funds under Public Law 94-103 that shall be allotted to each area board.

In allotting funds to area boards, in the state plan, the state council shall allot no more than 45 percent of federal Public Law 94-103 developmental disabilities funds to all area boards in any one year. Nothing in this section shall prevent the appropriation of additional funds to area boards from the General Fund.

Area boards may receive grants of funds in addition to an allocation of state funds or federal funds under Public Law 94-103 as authorized under this division. Such funds shall be used only for purposes of extending the area boards' activities as authorized in this division.

4612. Each area board may appoint an executive secretary who may appoint persons to such staff positions as the area board may authorize. The affirmative votes of a majority of the members of the area board shall be necessary for the appointment or removal of an executive secretary.

Each area board may contract for additional technical assistance to carry out its duties as established by this division.

4613. Notwithstanding any other provision of law, any contract entered into between the State of California and an area board may provide for periodic advanced payments for services to be performed under such contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

CHAPTER 5. REGIONAL CENTERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Article 1. Regional Center Contracts

4620. In order for the state to carry out many of its responsibilities as established in this division, the state shall contract with appropriate agencies to provide fixed points of contact in the community for persons with developmental disabilities and their families, to the end that such persons may have access to the facilities and services best suited to them throughout their lifetime. It is the intent of this division that the network of regional centers for persons with developmental disabilities and their families be accessible to every family in need of regional center services.

The Legislature finds that the service provided to individuals and their families by regional centers is of such a special and unique nature that it cannot be satisfactorily provided by state agencies. Therefore, private nonprofit community agencies shall be utilized by the state for the purpose of operating regional centers.

4621. The department, within the limitations of funds

appropriated, shall contract with appropriate private nonprofit corporations for the establishment of regional centers.

Notwithstanding any other provision of law, any contract entered into pursuant to this section may provide for periodic advance payments for services to be performed under such contract. No advance payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

4622. After July 1, 1978, the state shall contract only with agencies, the governing boards or the program policy committees of which conform to the following criteria:

(a) The governing board or the program policy committee shall be composed of individuals with demonstrated interest in, or knowledge of, developmental disabilities.

(b) The membership of the governing board or the program policy committee shall include persons with legal, management, public relations, and developmental disability program skills.

(c) The membership of the governing board or the program policy committee shall include representatives of the various categories of disability to be served by the regional center.

(d) The governing board or the program policy committee shall reflect the geographic and ethnic characteristics of the area to be served by the regional center.

(e) A minimum of one-third of the members of the governing board or the program policy committee shall be persons with developmental disabilities or their parents or legal guardians.

(f) Members of the governing board or the program policy committee shall not be permitted to serve longer than six consecutive years.

Nothing in this section shall prevent the appointment to a regional center governing board or the program policy committee of a person who meets the criteria for more than one of the categories listed above.

4623. In the event that the governing board of the regional center is not composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 4622, such governing board shall establish a program policy committee which is composed of such individuals. The program policy committee shall appoint one of its members to serve as an ex officio member of the governing board.

4624. When the governing board of the regional center is not composed of individuals as specified in subdivisions (a) to (f), inclusive, of Section 4622, the program policy committee to the regional center shall be responsible for establishing the program policies of the regional center. All program policies adopted by a program policy committee shall conform to the provisions of this division and the contract between the department and the governing board.

4625. After January 1, 1977, the department shall not contract with any new regional center contracting agency unless the governing board of such agency is composed of individuals as

specified in subdivisions (a) to (f), inclusive, of Section 4622

4626. In order to prevent potential conflicts of interest, no member of the governing board, or in those regional centers wherein a program policy committee is responsible for establishing program policies as defined in Section 4624, no member of the program policy committee of a regional center, shall be an employee of a state agency, or an employee or member of the state council or an area board, or an employee or a member of the governing board of any entity from which the regional center purchases services.

4627. The director of the department shall promulgate and enforce conflict of interest regulations to insure that members of the governing board, program policy committee, and employees of the regional center make decisions with respect to the regional centers that are in the best interests of the center's clients and families.

4628. If, for good reason, a contracting agency is unable to meet all the criteria for a governing board established in this chapter, the director may waive such criteria for a period of time, not to exceed one year, with the approval of the area board in the area and with the approval of the state council.

4629. After January 1, 1977, contracts between the state and the governing boards of regional centers shall include reasonable specific performance and reporting requirements relative to the responsibilities of regional centers defined in this division, and the timing for compliance with such requirements. The department shall specify procedures to be used by all regional centers which shall:

(a) Define "active" and "inactive" cases.

(b) Account for all funds received or expended by regional centers.

(c) Define a unit of direct service performed by regional center personnel.

(d) Allocate indirect, administrative, and overhead expenditures to a unit of direct service.

(e) Calculate costs per unit of direct service.

(f) Provide such other information as the department may require to analyze expenditures, conduct comparative cost and performance reviews, and implement the evaluation requirements in Chapter 8 (commencing with Section 4750) of this division.

Contracting agencies shall agree to use procedures specified by the department to produce caseload and unit of service cost reports.

4630. The contract between the state and the contracting agency shall not:

(a) Require information that violates client confidentiality.

(b) Prevent a regional center from employing innovative programs, techniques, or staffing arrangements which may reasonably be expected to enhance program effectiveness.

(c) Contain provisions which impinge upon the legal rights of private corporations chartered under California statutes.

4631. The department's contract with a regional center shall

require strict accountability and reporting of all expenditures, and strict accountability and reporting as to the effectiveness of the regional center in carrying out its program and fiscal responsibilities as established herein.

4632. If the department and a regional center are unable to resolve any contract dispute, either party may request the state council to review and advise with regard to the issues in dispute. The state council shall review and shall provide its advice in writing within 30 days of receiving a request for such review and advice. Copies of the state council's advice shall be transmitted to the Director of Developmental Services and the governing board of the regional center. The state council's advice shall not be binding upon either party.

4633. If the department or any regional center intends to adopt any material change in policy which will have a direct effect upon the contract between the state and the regional center, the department or the regional center shall give at least 30 days' notice of an intent to change policy, and, if necessary, the contract between the state and such regional center shall be amended. The department shall not require regional centers to provide or purchase any services beyond the level of the funding appropriation for such services. If the department should alter the rates of payments to providers, the regional center budget shall be adjusted accordingly.

4634. Contracts between the department and regional center shall be presented for final negotiation to regional center governing boards at least 90 days' prior to the effective date of such contracts. A regional center shall not be expected to perform functions not specified in the contract without a revision of such contract.

4635. If any regional center finds that it is unable to comply with the requirements of this division or its contract with the state, the regional center shall be responsible for informing the department immediately that it does not expect to fulfill its contractual obligations. Failure to provide such notification to the department in a timely manner shall constitute grounds for possible revocation of the contract. If any regional center makes a decision to cancel its contract with the department, such regional center shall give a minimum of 90 days' written notice of its intention.

If the department finds that any regional center is not fulfilling its contractual obligations, the department shall make reasonable efforts to resolve the problem, including the provision of technical assistance to the regional center or renegotiation of the contract

If the department finds that any regional center continues to fail in fulfilling its contractual obligations after reasonable efforts have been made, and finds that other regional centers are able to fulfill similar obligations under similar contracts, and finds that it will be in the best interest of the persons being served by the regional center, the department shall take steps to terminate the contract and to negotiate with another governing board to provide regional center services in the area. Prior to the initiation of termination

procedures, the contracting agency or the department may initiate the procedures for resolving disputes contained in Section 4632.

When terminating a regional center contract and negotiating with another governing board for a regional center contract, the department shall:

(a) Notify the area board, all personnel employed by the regional center, all vendors of service to the regional center, and all clients of the regional center informing them that the contract with the regional center is to be terminated, and that the state will continue to fulfill its obligations to assure a continuity of services, as required by state law, through a contract with a new governing board.

(b) Request the area board and any other community agencies to assist the state by locating or organizing a new governing board to contract with the department to operate the regional center in the area. Area boards shall cooperate with the department when such assistance is requested.

(c) Provide such assistance as may be required to assure that the transfer of responsibility to a new regional center will be accomplished with minimum disruption to the clients of the service program.

4636. If necessary, to avoid disruption of the service program, the department may directly operate a regional center during the interim period between the termination of its contract with one governing board and the assumption of operating responsibility by a regional center contract with another governing board. In no event shall the department directly operate a regional center program for longer than 120 days before contracting with a new governing board. The department may, if requested by the new governing board, continue to provide additional assistance to avoid disruption of the service program, until such time as the governing board has assumed full responsibility for the operation of the program.

Article 2. Regional Center Responsibilities

4640. Contracts between the department and regional centers shall specify the service area and the categories of persons that regional centers shall be expected to serve and the services to be provided. In order to assure uniformity in the application of the definition of developmental disability contained in this division, the Director of Developmental Services shall, by March 1, 1977, issue regulations that delineate, by diagnostic category and degree of handicap, those persons who are eligible for service by regional centers. In issuing the regulations, the director shall invite and consider the views of regional center contracting agencies, the state council, and persons with a demonstrated and direct interest in developmental disabilities.

4641. All regional centers shall conduct casefinding activities, including notification of availability of service in English and such other languages as may be appropriate to the service area, outreach

services in areas with a high incidence of developmental disabilities, and identification of persons who may need service.

4642. Any person believed to have a developmental disability, and any person believed to be a high risk of parenting a disabled infant, shall be eligible for initial intake and assessement services in the regional centers.

Initial intake shall be performed within 15 working days following request for assistance. Initial intake shall include, but need not be limited to, information and advice about the nature and availability of services provided by the regional center and by other agencies in the community, including guardianship, income maintenance, mental health, housing, education, work activity and vocational training, medical, dental, recreational, and other services or programs that may be useful to persons with developmental disabilities or their families. Intake shall also include a decision to provide assessment.

4643. If assessment is needed, it shall be performed within 60 days following initial intake. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs. If unusual circumstances prevent the completion of assessment within 60 days following intake, such assessment period may be extended by one 30-day period with the advance written approval of the department.

4644. In addition to any person eligible for initial intake or assessment services, regional centers may provide or cause to be provided preventive services to any potential parent determined to be at high risk of parenting a disabled infant.

4645. If any person requests regional center services and is found to be ineligible for such services, the reasons for denial shall be presented in writing to the applicant and, if necessary, a referral to other appropriate services shall be arranged. In such cases, the applicant shall also be advised in writing of the appeals procedure established in this division.

4646. On and after January 1, 1977, an individual program plan may be developed for any person who, following intake and assessment, is found to be eligible for, and in need of, such plan. Such plans shall be completed within 60 days of the completion of assessement.

Individual program plans shall be prepared jointly by one or more representatives of the regional center, the developmentally disabled person, and where appropriate, the person's parents, legal guardian, or conservator.

The program plan shall include the following:

(a) An assessement of the developmentally disabled person's specific capabilities and problems. The regional centers, in cooperation with the department, shall adopt an approved list of tests to be used by all regional centers in making such assessments. The test or tests used shall have been determined to be reliable and

valid by acceptable statistical methods.

(b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems of the person. Such objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve program plan objectives, including identification of the provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified. The same test or tests used to measure client capabilities and problems shall be used for review and reassessment.

(e) All individual program plans shall be reviewed and modified, if necessary, at least annually by the regional center representative and the person, the person's parents, legal guardian, or conservator.

The state department, with the participation of regional center personnel, shall prepare a standard format for the preparation of individual program plans, which shall be used by all regional centers.

4647. By January 1, 1979, all active cases shall have an individual program plan as specified in Section 4646.

4648. In order to achieve the stated objectives of any individual program plan, the regional center shall conduct activities including, but not limited to, the following:

(a) Program coordination which may include securing, through purchase or referral, services specified in the person's plan, coordination of service programs, information collection and dissemination, and measurement of progress toward objectives contained in the person's plan.

The regional center shall assign a program coordinator who will be responsible for implementing, overseeing, and monitoring each individual program plan. The program coordinator may be an employee of the regional center or may be a qualified individual or employee of an agency with whom the regional center has contracted to provide program coordination.

At such times as the individual program plan is reviewed, but at least annually, the performance of the program coordinator shall also be reviewed by the regional center, the person with developmental disabilities, and the person's parents or legal guardian or conservator. No person shall continue to serve as a program coordinator for any individual program plan unless there is agreement by all parties that the person should continue to serve as program coordinator.

Nothing shall prevent a person with developmental disabilities or such person's parent, legal guardian, or conservator, from being the program coordinator of the person's individual program plan, if the regional center director agrees that such an arrangement is feasible and in the best interest of the person with the developmental disabilities. If any person listed above is designated as the program coordinator, such person shall not deviate from the agreed-upon

program plan and shall provide any information and reports as may be required by the regional center director.

(b) Purchase of needed services.

A regional center may purchase services for a client from any individual or agency the regional center determines will best accomplish all or any part of that client's program plan.

In making the initial choice to purchase services from an agency, facility, or individual, the regional center may use a professionally recognized, reliable, and valid instrument of accreditation. Thereafter, the regional center shall renew its contracts or purchases on the basis of a vendor's success in achieving the objectives set forth in the individual program plan.

No puchase of service contract with any agency or individual shall be continued unless the regional center and the person with developmental disabilities, or when appropriate, the person's parents or legal guardian or conservator agree that reasonable progress has been made towards the objectives for which the service provider is responsible.

Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing such services.

A regional center may purchase required out-of-home care for developmentally disabled persons. In considering appropriate placement alternatives for developmentally disabled children, approval by the child's parent, guardian, or conservator shall be obtained before placement is made.

Each developmentally disabled person placed by the regional center in an out-of-home residential facility shall have the rights specified in this division. These rights shall be brought to the person's attention by such means as the Director of Developmental Services may designate by regulation.

(c) Advocacy for, and protection of, the civil, legal, and service rights of developmentally disabled persons as established in this division.

Whenever the advocacy efforts of a regional center to secure or protect the legal, civil, or service rights of any of its clients prove ineffective, the regional center or the person with developmental disabilities or their parents, legal guardian, or other representative may request the area board to initiate action under the provisions defining area board advocacy functions established in this division.

(d) Community organization and program development, including liaison activities with existing service agencies, identification of services needed but unavailable, identification of ineffective services and services of poor quality, identification of programs which may not be in compliance with local, state, and federal statutes and approved regulations.

In order to expand the availability of needed services of good quality, a regional center may take any of the following actions:

(1) Provide information to the area board to assist the area board in determining recommended priorities for program development for inclusion in the state plan.

(2) Request the department to allocate funds from the Developmental Disabilities Program Development Fund to initiate a new program.

(3) Notify the appropriate licensing authority or request the area board to investigate and act upon any agency's possible noncompliance with local, state, or federal laws or regulations.

(4) Provide or secure consultation, training, or technical assistance services for any agency to assist such agency in upgrading the quality of its program. Except in emergency situations, a regional center shall not provide direct treatment and therapeutic services, but shall utilize appropriate public and private community agencies and service providers to obtain such services for its clients.

4649. Regional centers shall cooperate with area boards in joint efforts to inform the public of services available to persons with developmental disabilities and of their unmet needs, provide materials and education programs to community groups and agencies with interest in, or responsibility for, persons with developmental disabilities, and develop resource materials, if necessary, containing information about local agencies, facilities, and service providers offering services to persons with developmental disabilities.

4650. Regional centers shall be responsible for developing an annual plan and program budget to be submitted to the director no later than September 1 of each fiscal year. An information copy shall be submitted to the area board and state council by the same date.

4651. It is the intent of the Legislature to encourage regional centers to find innovative and economical methods of achieving the objectives contained in individual program plans of persons with developmental disabilities.

To the extent feasible, within the limitations of state law and available funds, the department shall encourage and assist regional centers to use innovative programs, techniques, and staffing arrangements to carry out their responsibilities.

4652. A regional center shall investigate every appropriate and economically feasible alternative for care of a developmentally disabled person available within the region. If suitable care cannot be found within the region, services may be obtained outside of the region.

4653. Except for those developmentally disabled persons judicially committed to state hospitals, no developmentally disabled person shall be admitted to a state hospital except upon the referral of a regional center. Upon discharge from a state hospital, a developmentally disabled person shall be referred to an appropriate regional center.

4654. Before any person is examined by a regional center pursuant to Section 1370.1 of the Penal Code, the court ordering such

medical examination shall transmit to the regional center a copy of the orders made pursuant to proceedings conducted under Sections 1368 and 1369 of the Penal Code. The purpose of the mental examination shall be to determine if developmental disability is the primary diagnosis.

4655. The director of a regional center or his designee may give consent to medical, dental, and surgical treatment of a regional center client and provide for such treatment to be given to the person under the following conditions:

(a) If the developmentally disabled person's parent, guardian, or conservator legally authorized to consent to such treatment does not respond within a reasonable time to the request of the director or his designee for the granting or denying of consent for such treatment, the director of a regional center or his designee may consent on behalf of the developmentally disabled person to such treatment and provide for such treatment to be given to such person.

(b) If the developmentally disabled person has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the person, the director of the regional center or his designee may consent to such treatment on behalf of the person and provide for such treatment to be given to the person. The director of a regional center or his designee may thereupon also initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical services.

(c) If the developmentally disabled person is an adult and has neither a guardian or conservator, consent to treatment may be given by someone other than the person on the person's behalf only if the developmentally disabled person is mentally incapable of giving his own consent.

CHAPTER 6. DEVELOPMENT AND SUPPORT OF COMMUNITY FACILITIES AND PROGRAMS

Article 1. General

4670. The Legislature finds that there is a shortage of programs and facilities to provide a comprehensive network of habilitation services to persons with developmental disabilities throughout the state.

In order to assure the development and necessary support for a comprehensive network of programs of good quality, in every area of the state, in an orderly and economic manner, the following procedures are established.

Article 2. Planning and Developing New and Expanded Programs and Facilities

4675. On and after January 1, 1978, the state plan established in

this division shall be the primary method used for determining, in an orderly way, the programs and facilities that shall be developed, expanded, terminated, or reduced. The state plan shall also state the objectives of such programs, amounts and sources of required funding, priorities for development, timing, agencies responsible for implementation, and procedures for evaluation.

4676. Prior to making an appropriation or allocating any state or federal funds for new or major expansions of programs or facilities for persons with developmental disabilities, the state plan shall be reviewed to determine if the proposed expenditure is consistent with the priorities approved in the plan.

If any expenditure of such funds for new or major expansions of programs or facilities is proposed by any agency that does not conform to the priorities approved in the state plan, the state council shall review and publicly comment on such proposed expenditure.

4677. Effective July 1, 1977, all parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan. In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

Parental fee schedules shall be evaluated pursuant to the provisions of Section 4785 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of such care and the ability of the family to pay.

In addition to parental contributions and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when such funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department for a period of three years for the purposes of this section. In no event shall any such funds revert to the General Fund, except at the conclusion of the three-year period. Prior to the end of the three-year period, the Department of Finance shall review the utilization and effectiveness of the Program Development Fund and shall report its findings to the Legislature.

The Legislative Analyst shall review and comment on the utilization and effectiveness of the Program Development Fund in connection with the annual budget hearings.

The department may allocate funds from the Program Development Fund for any legal purpose, provided, that such allocations are consistent with the priorities for program development in the state plan and are approved by the state council. Allocations from the Program Development Fund shall take into consideration the future fiscal impact of such allocations on other

state-supported programs for developmentally disabled persons. To the extent feasible, allocation decisions shall also take into consideration distribution of funds to geographic areas proportionate to such area's contributions to the Program Development Fund.

Article 3. Rates of Payment for Community Living Facilities

4680. In order to assure the availability of a continuum of community living facilities of good quality for persons with developmental disabilities, the department shall establish and maintain an equitable system of payment to providers of such services. The system of payment shall include provision for the special needs of persons with developmental disabilities.

4681. By July 1, 1977, and each year thereafter, the department shall establish rates, which shall be reviewed by the state council. Such rates shall annually be presented to the Legislature and shall be operative on July 1 of each year, subject to the appropriation of sufficient funds for such purpose in the Budget Act. In establishing rates to be paid for out-of-home care, the department shall consider and, when appropriate, include each of the cost elements in this section as follows:

(a) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" are defined to include housing (shelter, utilities, and furnishing), food, clothing, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, between the age of 12–17, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the department using the best available estimating methods.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision" shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision. Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons. The cost of "direct supervision" is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities. These amounts shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of

the Fair Labor Standards Act.

(c) Rates established for all facilities that provide "special services" for persons with developmental disabilities shall include an amount to pay for such "special services" for each person receiving special services. "Special services" include medical and dental care and therapeutic, educational, training, or other services required in the individual program plan of each person. Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, and general and administrative support. If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

4682. Under no circumstances shall the rate of state payment to any provider of out-of-home care exceed the average amount charged to private clients residing in the same facility, nor shall the monthly rate of state payment to any such facility, with the exception of a licensed acute care or emergency hospital, exceed the average monthly cost of services for all persons with developmental disabilities who reside in state hospitals.

4683. It is the intent of the Legislature that rates of payment for out-of-home care shall be established in such ways as to assure the maximum utilization of all federal and other sources of funding, to which persons with developmental disabilities are legally entitled, prior to the commitment of state funds for such purposes.

Article 4. Supportive Services for Persons Living at Home

4685. The Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program. In order to provide opportunities for children to live with their families, the following procedures shall be adopted:

(a) The state plan shall give a very high priority to the development and expansion of programs designed to assist families in caring for their children at home. Such assistance may include, but is not limited to: specialized medical and dental care, special training for parents, infant stimulation programs, respite for parents, homemaker services, camping, day care, short-term out-of-home care, babysitting, counseling, mental health services, behavior modification programs, special equipment such as wheelchairs, hospital beds, and other necessary appliances, and advocacy to assist persons in securing income maintenance and other benefits to which they are entitled.

(b) In developing individual program plans for children, regional centers shall consider every possible way to assist families in maintaining their children at home, when living at home will be in the best interest of the child, before considering out-of-home placement alternatives.

The department shall conduct an annual review of the percentage of children in out-of-home placement, relative to caseload, in each regional center, and shall investigate any possible excessive out-of-home placements in any regional center. If the department determines that a regional center has failed to emphasize assistance to families to care for their children at home, the department shall assist the regional center to develop a more appropriate program and shall establish specific home-care objectives for the regional center to meet in its contract with the state.

(c) If the parent of any child receiving service from a regional center believes that the regional center is not offering adequate assistance to enable the family to keep the child at home, such parent may initiate request for fair hearing as established in this division.

(d) Nothing in this section shall be construed to encourage the continued residency of adult children in the home of their parents when such residency is not in the best interests of the person.

Article 5. Regional Center Rates for Nonresidential Services

4690. The Director of Developmental Services shall establish rates of state payment for nonresidential services purchased by regional centers. An equitable system of rates shall be developed, maintained, and revised as necessary under this chapter in order to assure that regional centers may secure high-quality services for

developmentally disabled persons. In developing such rates, the director shall take into account the rates paid by other agencies and jurisdictions in order to assure that regional center rates are at competitive levels. In no event shall rates established pursuant to this article be any less than those established for comparable services under the State Medi-Cal Program.

CHAPTER 7. APPEALS PROCEDURES

Article 1. Service Agency Fair Hearing Procedure

4700. On and after July 1, 1977, every public or private agency that receives state funds to provide services for persons with developmental disabilities shall, as a condition of continued receipt of such funds, have an agency fair hearing procedure for resolving conflicts between the agency and consumers or potential consumers of service.

Any agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

The service agency's fair hearing procedure shall be stated in writing, in English and such other language as may be appropriate to the needs of the consumers of the agency's service. All consumers currently receiving services as persons with developmental disabilities or their legally responsible relatives, guardians, or anyone having legal custody of a developmentally disabled person, and all such persons formally applying for service shall be informed verbally of, and shall be notified in writing in a language which they comprehend of, the agency's fair hearing procedure. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the agency.

4701. The service agency's fair hearing procedure shall meet the following minimum requirements:

(a) Any person with developmental disabilities, or who is believed to have a developmental disability, or the parent, legal guardian, anyone having legal custody, or other representative acting on behalf of such person shall have the opportunity to request a fair hearing to contest the decision of any agency which he believes to be illegal, unjust, discriminatory, or not in the best interest of the person with developmental disabilities. The request for a fair hearing shall be stated in writing on an appeal for fair hearing form to be provided by the agency.

If any person makes a verbal request for a fair hearing, the employee of the agency who hears the request shall provide the person with an appeal for fair hearing form and shall assist the person in filling out such form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(b) The agency s procedures for responding to a request for a fair

hearing shall be informal and shall result in a written decision by the agency within 30 days from the date of submission of the request for fair hearing form.

(c) Requests for a fair hearing shall be directed to the director of the agency. Upon receipt by the agency director, or his designated representative, of a request for a fair hearing submitted by a person with developmental disabilities, his parent, guardian, conservator, or other representative, shall within 10 days of receipt of such request:

(1) Meet with the person requesting the fair hearing in an attempt to settle the grievance. Such person shall have the right to examine any documents contained in the developmentally disabled person's agency file, provided that the written consent of the person with developmental disabilities must be secured therefor in the case of a developmentally disabled adult who is not under guardianship or conservatorship.

(2) If it is determined that the grievance has merit, the agency director may rule in favor of the person who requested the fair hearing.

(3) If the agency director fails to resolve the grievance to the satisfaction of the person who requested the fair hearing, the agency director shall commence the fair hearing procedure.

(d) The person with developmental disabilities and the parent, guardian, or conservator of such person shall be given written notice in a language which they comprehend of all fair hearing and review proceedings that the agency may conduct; shall be permitted to have with them any representative they may wish to have assist them in presenting their grievance. Fair hearing proceedings shall be conducted at such times and places as to permit the participation of the person who requested the review.

The person who makes the appeal and his representative shall have access to any records in possession of the agency which may have a bearing on the issues being contested.

Article 2. Appeals Board Hearings

4705. Any person who has made a request for a service agency fair hearing may, within 30 days following the date of receipt of the written decision of the service agency, notify in writing the director, or the governing board of the agency, that he does not accept the decision of the service agency and that an appeals board hearing of the decision is requested.

The appeals board hearing shall take place within 30 days following the agency's receipt of such written notification. Both parties shall agree to a convenient time and place for such hearing in the county of residence of the person requesting the hearing.

The appeals board shall be composed of three persons, one selected by the agency's governing board, one selected by the person or persons requesting the hearing, and the third selected by mutual agreement of the two persons selected by the agency's governing

board and the person or persons requesting the hearing. If agreement cannot be achieved in selecting the third member of the appeals board at least 15 days prior to the date set for the hearing, the area board shall, within 15 days, select the third member and the appeals board hearing shall commence within 15 days following such selection.

4706. The chairman of the appeals board shall be selected by its members.

4707. The hearing shall be conducted in an informal manner. Each party, and their respresentatives, shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Irrelevant and unduly repetitious evidence may be excluded.

The hearing shall be conducted in the English language. However, if any of the parties does not comprehend English, then an interpreter shall be provided by the parties who shall be approved by the chairman of the appeals board as being proficient in the English language and the language in which the witness will testify.

A stenographic record shall be kept or a recording made of the proceedings before the appeals board.

Any cost of interpreter and stenographic services shall be paid by the agency.

4708. Within 15 days after submission of all evidence and argument before the appeals board, the board shall render a written decision based upon a majority vote of its members. Both parties shall act upon such decision unless either party appeals the board's determination to the responsible state agency.

4709. The appeals board's written decision shall be in ordinary and concise language. If any of the parties cannot comprehend English, then the written decision shall be translated into a language which such party can comprehend. The decision shall contain findings of fact, a determination of the issues presented, and the reason for the decision. The decision shall become effective within 30 days. The notice of the decision shall state that either party has a right of appeal to the responsible state agency.

4710. Appeals board hearings shall be open to the public except when personnel matters are being reviewed.

Article 3. State Agency Review and Hearing

4715. If either party disagrees with the decision of the appeals board, he or she may request, in writing, the director of the state agency or department (hereinafter called the "responsible state

agency") primarily responsible for operating, funding, or monitoring the program subject to the appeal, to review the decision within 30 days following notification of such decision.

The director of the responsible state agency or his designee shall review the records of the appeals board hearing and may request additional information from either party.

4716. If the director of the responsible state agency decides not to hear the appeal, the decision of the appeals board shall be final.

If the director of the responsible state agency decides to hear the appeal, the decision of the appeals board shall be held in abeyance until the director renders a final decision. If the director of the responsible state agency decides to hear the appeal, he shall render a decision within 30 days from the time that the request for a state agency hearing was received. If the director of the state agency fails to render a decision within 30 days, such failure shall constitute a waiver of the responsible state agency's right to hear the case and the decision of the appeals board shall be final.

If the responsible state agency conducts a hearing, the hearing shall be conducted according to the same procedures as required for appeals board hearings.

The decision of the responsible state agency shall be the final administrative determination and both parties shall be bound thereby.

4717. Nothing in this division shall presume the incompetence of any person with a developmental disability to participate in any of the appeals procedures established herein.

4718. If in the opinion of any person, the rights or best interests of any individual with developmental disabilities may not be properly protected or advocated in any appeals procedure, the area board shall be notified and the area board may appoint a personal advocate to represent the individual with the developmental disability in such appeals procedures.

Article 4. Right to Representation

4725. At any stage in the appeals procedure, the person with developmental disabilities or the parents or legal guardian of such person shall have the right to be represented, at their own expense, by the person or persons of their choice including, but not limited to, private legal counsel, legal aid societies, or citizen advocacy organizations.

CHAPTER 8. EVALUATION

4750. The Legislature intends that expenditures on state programs for the developmentally disabled shall have measurable and desirable results. Such results shall reflect the degree to which developmentally disabled persons are leading more independent, productive, and normal lives.

4751. The department shall perform all of the following tasks to provide the Legislature with information to determine the extent to which programs under its jurisdiction are obtaining desirable results:

(a) The department shall propose to the Legislature by July 1, 1977, a method for determining that developmentally disabled persons throughout the state are, as a result of services provided pursuant to this division, leading more independent, productive, and normal lives. The proposed method shall measure changes, including, but not limited, to changes in:

(1) The amount of supervision required and the restrictiveness of living situations.

(2) The productivity of adults involved in vocational, prevocational, or work training programs.

(3) The relative normality of training or education experiences, including hours of attendance and participation in activities with nondisabled persons.

(b) The proposed method shall apply to developmentally disabled persons living in state hospitals and in the community.

(c) The proposed method shall have the capability of measuring progress or lack of progress for adults and for children, regardless of the degree of their handicaps.

(d) The proposed method shall be approved by the state council prior to its submission to the Legislature.

(e) The proposed method shall include scales for measuring changes in individual clients as defined in subdivision (a), and examples of the format to be used in reporting evaluation results to the Legislature. The proposed method shall be reviewed and commented upon by the appropriate committees of the Legislature within 30 days. After such 30 days the department shall field test the proposed method and report its findings to the Legislature by February 1, 1978.

4752. The department shall prepare by July 1, 1978, a plan for using the method to obtain and report statewide information on program effectiveness.

The plan shall include:

(a) A description of any sampling procedures to be used.

(b) Methods for obtaining and analyzing information about the type and amount of service provided to obtain program results.

(c) Methods for determining the state expenditures associated with varying levels of measured program effectiveness.

(d) Specification of procedures and format for future reports to the Legislature on program costs and effectiveness.

(e) The projected costs of implementation

4753. By January 1, 1979, the department shall implement the evaluation system for all programs under its jurisdiction.

4754. Nothing in this chapter shall be construed to prohibit any agency providing services to persons with developmental disabilities from utilizing additional evaluation mechanisms for the agency's own program purposes.

CHAPTER 9. BUDGETARY PROCESS AND FINANCIAL PROVISIONS

4775. The Legislature finds that the method of appropriating funds for numerous programs for the developmentally disabled affects the availability and distribution of services and must be related to statewide planning. Therefore, the process for determining levels of funding of programs must involve consideration of the state plan established pursuant to Chapter 3 (commencing with Section 4560) of this division and the participation of citizens who may be directly affected by funding decisions.

4776. On or before September 1 of each year, each regional center shall submit to the department and the state council a program budget plan for the subsequent budget year. The budget plan shall include all of the following:

(a) An estimate of all developmentally disabled persons to be served by the regional center.

(b) An estimate of services to be provided by the regional center.

(c) An estimate of cost, by type of service.

(d) Estimated sources and amounts of all revenue, including funds which are not administered by regional centers.

(e) A detailed report of the resources required to implement Section 4509.

4777. On or before September 1 of each year, the Superintendent of Public Instruction shall submit to the state council:

(a) An estimate of all developmentally disabled persons to be served throughout the state.

(b) Estimated total cost, by service or educational category.

(c) Estimated sources of revenue.

4778. To the extent feasible, all funds appropriated for developmental disabilities programs under this part shall be allocated to such programs by August 1 of each year. Any funds not allocated by that date shall be reported to the Legislature together with specific reasons for the nonallocation of such funds. Within 30 days after enactment, all departments administering programs providing services to the developmentally disabled shall submit to the Joint Legislative Budget Committee, the fiscal committees of both houses, and the state council a reconciliation of allocated funds with the appropriate budget item.

4779. On or before January 1 of each year, the department shall submit a report to the state council, which shall be given with the council's comments and recommendations in a report to the Joint Legislative Budget Committee and the fiscal committees of both houses which provides actual and estimated expenditures for programs for the developmentally disabled during the first six months of the fiscal year and an estimate of total year-end expenditures.

If year-end expenditures are estimated to be less than the amount

appropriated, the report shall indicate alternative program uses for the estimated savings that are consistent with the priorities in the state plan.

If year-end expenditures are estimated to be more than the amount appropriated, the report shall indicate anticipated actions that will be taken to secure additional funds or reduce expenditures.

4780. When appropriated by the Legislature, the department may receive and expend all funds made available by the federal government, the state, its political subdivisions, and other sources, and, within the limitation of the funds made available, shall act as an agent for the transmittal of such funds for services through the regional centers. The department may use any funds received under Article 2 (commencing with Section 248), Chapter 2, Part 1, Division 1 of the Health and Safety Code for the purposes of this division.

4781. The department may accept and expend grants, gifts, and legacies of money and, with the consent of the Department of Finance, may accept, manage, and expend grants, gifts and legacies of other property, in furtherance of the purposes of this division.

The secretary may enter into agreements with any person, agency, corporation, foundation, or other legal entity to carry out the purposes of this division.

4782. Parents of children under the age of 18 who are receiving services purchased by the regional center may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the cost of caring for a normal child at home, as determined by the director. Parental contributions shall be made only to the regional center and the method of determination of the amount of the contribution shall be the same, whether the child is placed in the state hospital or in a public or private community facility. In no event, however, shall parents be charged for diagnosis or counseling services received through the regional centers.

4783. Parents of children under the age of 18 who are patients in a state hospital or on leave from a state hospital, and who were admitted to the state hospital prior to July 1, 1971, may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the cost of caring for a normal child at home, as determined by the director. Parental contributions shall be made only to the regional center from which the child would have been referred had he been admitted to the state hospital after July 1, 1971, and the method of determination of the amount of the contribution shall be the same as that provided in Section 4782.

4784. The Director of Developmental Services shall establish and annually review a schedule for parental fees for services received through the regional centers.

In establishing the amount parents will contribute, the director shall take into account such factors as:

(a) Medical expenses incurred prior to regional center care;

(b) Whether the child is living at home;

(c) Parental contributions for medical expenses, clothing,

incidentals, and other items considered necessary to the normal rearing of a child; and

(d) Transportation expenses incurred in visiting a child placed in a facility outside the region.

All parental contributions shall be deposited in the Developmental Disabilities Program Development Fund established in Chapter 6 (commencing with Section 4670) of this division to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

4785. The department shall conduct a study of the parental fee schedules established pursuant to this division and shall recommend changes to the Legislature by July 1, 1977. Such review shall include:

(a) The basic premises upon which the fee schedule is based.

(b) The equity of fees required in relation to family income.

(c) The relationship of parental fees charged under this part with respect to fees charged under other state and federal programs for developmentally disabled persons.

CHAPTER 10. JUDICIAL REVIEW

4800. Every adult who is or has been admitted or committed to a state hospital, community care facility as defined in Section 1504 of the Health and Safety Code, or health facility as defined in Section 1250 of the Health and Safety Code, as a developmentally disabled patient shall have a right to a hearing by writ of habeas corpus for his release from the hospital, community care facility or health facility after he or any person acting on his behalf makes a request for release to any member of the staff of the state hospital, community care facility or health facility or to any employee of a regional center.

The member of the staff or regional center employee to whom a request for release is made shall promptly provide the person making the request for his signature or mark a copy of the form set forth below. The member of the staff, or regional center employee, as the case may be, shall fill in his own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the medical director of the state hospital, the administrator or director of the community care facility or the administrator or director of the health facility, as the case may be, or his designee, notifying him of the request. As soon as possible, the person notified shall inform the superior court for the county in which the state hospital, community care facility, or health facility is located of the request for release and shall transmit a copy of the request for release to the person's parent, guardian, or conservator together with a statement that notice of judicial proceedings taken pursuant to such request will be forwarded by the court. The copy of the request for release and such notice shall be sent by the person notified by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return

receipt requested The person notified shall also transmit a copy of the request for release and the name and address of the person's parent, guardian, or conservator to the court.

Any person who intentionally violates this section is guilty of a misdemeanor.

The form for a request for release shall be substantially as follows:

(Name of the state hospital, community care facility, or health facility or regional center) _____ day of _____ 19__

I, _____ (member of the staff of the state hospital, community care facility, or health facility or employee of the regional center), have today received a request for the release from _____ (name of state hospital) State Hospital, community care facility, or health facility of _____ (name of patient) from the undersigned patient on his own behalf or from the undersigned person on behalf of the patient.

_____

Signature or mark of patient making request for release

_____

Signature or mark of person making request on behalf of patient

4801. Judicial review shall be in the superior court for the county in which the state hospital, community care facility, or health facility is located. The adult requesting to be released shall be informed of his right to counsel by a member of the staff of the state hospital, community care facility, or health facility and by the court; and if he does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him in preparation of a petition for the writ of habeas corpus and to represent him in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent, guardian, or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent, guardian, or conservator and to the director of the appropriate regional center are deposited in the United States mail pursuant to this section. If the court finds (a) that the adult requesting release or for whom release is requested is not developmentally disabled, or (b) that he is developmentally disabled and that he is able to provide safely for his basic personal needs for food, shelter, and clothing, he

shall be immediately released. If the court finds that he is developmentally disabled and that he is unable to provide safely for his basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to such responsible person or regional center or other public or private agency, as the case may be, subject to any conditions which the court deems proper for the welfare of the developmentally disabled adult and which are consistent with the purposes of this division.

If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent, guardian, or conservator, and is in need of a guardian or conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator for the developmentally disabled adult.

4802. This chapter shall not be construed to impair the right of a guardian or conservator of an adult developmentally disabled patient to remove the patient from the state hospital at any time pursuant to Section 4825.

4803. If a regional center recommends that an adult be admitted to a state hospital as a developmentally disabled patient or to a community care facility or health facility as a developmentally disabled resident, the employee or designee of the regional center responsible for making such recommendations shall certify in writing that neither the person recommended for admission to the state hospital, community care facility, or health facility, nor any other person on behalf of the person so recommended for admission has made objection to such admission to the person making such recommendation. The regional center shall transmit such certificate, or a copy thereof, to the state hospital, community care facility, or health facility.

A state hospital, community care facility, or health facility, shall not admit any adult as a developmentally disabled patient on recommendation of a regional center unless a copy of such certificate has been transmitted pursuant to this section.

Any person who, knowing that objection to state hospital, community care facility, or health facility, admission has been made, certifies that no objection has been made, shall be guilty of a misdemeanor.

4804. Whenever a proceeding is held in a superior court under the provisions of this chapter, involving a person who has been placed in a state hospital located outside the county of residence of the person, the provisions of this section shall apply. The county clerk of the county in which the proceeding is held may make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement may be certified by a judge of the superior court of such county. The statement may then be sent

to the county of residence of the person, which shall reimburse the county providing such services. If it is not possible to determine the actual county of residence of the person, the statement may be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

CHAPTER 11. GUARDIANSHIP AND CONSERVATORSHIP

4825. This chapter shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of the estate of a developmentally disabled person pursuant to Section 7284.

It is the intent of this section that the Director of Developmental Services be appointed as guardian or conservator of a developmentally disabled person as provided, pursuant to the provisions of Article 7.5 (commencing with Section 416) Chapter 2, Part 1, Division 1 of the Health and Safety Code.

Notwithstanding Section 6000, the admission of an adult developmentally disabled person to a state hospital or private institution shall be upon the application of the person's parent or guardian or conservator in accordance with the provisions of Sections 4563 and 4803. Any person so admitted to a state hospital may leave the state hospital at any time, if such parent, guardian, or conservator gives notice of his desire for the departure of the developmentally disabled person to any member of the hospital staff and completes normal hospitalization departure procedures.

Notwithstanding the provisions of Section 4566, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

SEC. 551. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California medical assistance program set forth in Chapter 7 (commencing with Section

14000) of Part 3 of Division 9 of this code, or under Title XVIII of the Federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Developmental Services, Short-Doyle Programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in

which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

A person of any age may be "gravely disabled" under this definition, but the term does not include mentally retarded persons;

(i) "Peace officer" means each of the persons specified in Sections 830.1 and 830.2 of the Penal Code;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court.

SEC. 552. Section 5008.1 of the Welfare and Institutions Code is amended to read:

5008.1. As used in this division and in Division 4 (commencing with Section 4001), Division 4.1 (commencing with Section 4400), Division 6 (commencing with Section 6000), Division 7 (commencing with Section 7000), and Division 8 (commencing with Section 8000), the term "judicially committed" means all of the following:

(a) Persons who are mentally disordered sex offenders placed in a state hospital or institutional unit for observation or committed to the State Department of Mental Health for an indeterminate period pursuant to Article 1 (commencing with Section 6300) of Chapter 2

of Part 2 of Division 6.

(b) Persons who are narcotic drug addicts committed to the State Department of Mental Health pursuant to Article 2 (commencing with Section 6350) of Chapter 2 of Part 2 of Division 6.

(c) Persons who are habit-forming drug addicts committed to the State Department of Health pursuant to Article 3 (commencing with Section 6400) of Chapter 2 of Part 2 of Division 6.

(d) Persons who are mentally abnormal sex offenders committed to the State Department of Mental Health pursuant to Article 4 (commencing with Section 6450) of Chapter 2 of Part 2 of Division 6.

(e) Mentally retarded persons who are admitted to a state hospital upon application or who are committed to the State Department of Developmental Services by court order pursuant to Article 5 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6.

(f) Persons committed to the State Department of Mental Health or a state hospital pursuant to the Penal Code.

SEC. 553. Section 5119 of the Welfare and Institutions Code is amended to read:

5119. On and after July 1, 1972, when a person who is an employee of the State Department of Mental Health at the time of employment by a county in a county mental health program or on and after July 1, 1972, when a person has been an employee of the State Department of Mental Health within the 12-month period prior to his employment by a county in a county mental health program, the board of supervisors may, to the extent feasible, allow such person to retain as a county employee, those employee benefits to which he was entitled or had accumulated as an employee of the State Department of Mental Health or provide such employee with comparable benefits provided for other county employees whose service as county employees is equal to the state service of the former employee of the State Department of Mental Health. Such benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation and sick leave.

The county may on and after July 1, 1972, establish retraining programs for the State Department of Mental Health employees transferring to county mental health programs provided such programs are financed entirely with state and federal funds made available for that purpose.

For the purpose of this section "employee of the Department of Mental Health" means an employee of such department who performs functions which, prior to July 1, 1973, were vested in the Department of Mental Hygiene.

SEC. 554. Section 5150 of the Welfare and Institutions Code is amended to read:

5150. When any person, as a result of mental disorder, is a danger to others, or to himself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation

facility designated by the county, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he knows to be false.

SEC. 555. Section 5170 of the Welfare and Institutions Code is amended to read:

5170. When any person is a danger to others, or to himself, or gravely disabled as a result of inebriation, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, or other person designated by the county may, upon reasonable cause, take, or cause to be taken, the person into civil protective custody and place him in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation of inebriates.

SEC. 556. Section 5174 of the Welfare and Institutions Code is amended to read:

5174. It is the intent of the Legislature (a) that facilities for 72-hour treatment and evaluation of inebriates be subject to state funding under Part 2 (commencing with Section 5600) of this division only if they provide screening, evaluation and referral services and have available medical services in the facility or by referral agreement with an appropriate medical facility, and would normally be considered an integral part of a community health program; (b) that state reimbursement under Part 2 (commencing with Section 5600) for such 72-hour facilities and intensive treatment facilities, under this article shall not be included as priority funding as are reimbursements for other county expenditures under this part for involuntary treatment services, but may be provided on the basis of new and expanded services if funds for new and expanded services are available; that while facilities receiving funds from other sources may, if eligible for funding under this division, be designated as 72-hour facilities, or intensive treatment facilities for the purposes of this article, funding of such facilities under this division shall not be substituted for such previous funding.

No 72-hour facility, or intensive treatment facility for the purposes of this article shall be eligible for funding under Part 2 (commencing with Section 5600) of this division until approved by the Director of

Mental Health in accordance with standards established by the State Department of Mental Health in regulations adopted pursuant to this part. To the maximum extent possible, each county shall utilize services provided for inebriates and persons impaired by chronic alcoholism by federal and other funds presently used for such services, including federal and other funds made available to the State Department of Rehabilitation and the State Department of Mental Health. McAteer funds shall not be utilized for the purposes of the 72-hour involuntary holding program as outlined in this chapter.

SEC. 557. Section 5202 of the Welfare and Institutions Code is amended to read:

5202. The person or agency designated by the county shall prepare the petition and all other forms required in the proceeding, and shall be responsible for filing the petition. Before filing the petition, the person or agency designated by the county shall request the person or agency designated by the county and approved by the State Department of Mental Health to provide prepetition screening to determine whether there is probable cause to believe the allegations. The screening shall also determine whether the person will agree voluntarily to receive crisis intervention services or an evaluation in his own home or in a facility designated by the county and approved by the State Department of Mental Health. Following prepetition screening, the person or agency designated by the county shall file the petition if satisfied that there is probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself, or gravely disabled, and that the person will not voluntarily receive evaluation or crisis intervention.

If the petition is filed, it shall be accompanied by a report containing the findings of the person or agency designated by the county to provide prepetition screening. The prepetition screening report submitted to the superior court shall be confidential and shall be subject to the provisions of Section 5328.

SEC. 558. Section 5253 of the Welfare and Institutions Code is amended to read:

5253. A copy of the certification notice, as set forth in Section 5252, shall be personally delivered to the person certified. A copy of such notice shall be filed with the superior court on the same day as the date of the certification or, if the court is not open for business on that day, as soon thereafter as the court is open for business. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, to the facility providing intensive treatment, and to the State Department of Mental Health.

The person certified shall also be asked to designate any person whom he wishes informed regarding his certification. If he is incapable of making such a designation at the time of certification, he shall be asked to designate such person as soon as he is capable.

SEC. 559. Section 5263 of the Welfare and Institutions Code is amended to read:

5263. Copies of the second notice of certification for imminently suicidal persons, as set forth in Section 5262, shall be filed with the court and personally delivered to the person certified. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, to the facility providing intensive treatment, and to the State Department of Mental Health.

The person certified shall also be asked to designate any person whom he wishes informed regarding his certification. If he is incapable of making such a designation at the time of certification, he shall be asked to designate such person as soon as he is capable.

SEC. 560. Section 5304 of the Welfare and Institutions Code is amended to read:

5304. If the court or jury finds that the person named in the petition for postcertification treatment has (a) threatened, attempted, or actually inflicted physical harm upon the person of another after having been taken into custody for evaluation and treatment, and, as a result of mental disorder, presents an imminent threat of substantial physical harm to others, or (b) had attempted or inflicted physical harm upon the person of another, that act having resulted in his being taken into custody and who, as a result of mental disorder, presents an imminent threat of substantial physical harm to others, the court shall remand him to the custody of the State Department of Mental Health or to a facility designated by the county of residence for a further period of intensive treatment not to exceed 90 days from the date of court judgment. Said person shall be released from involuntary treatment at the expiration of 90 days unless the superintendent or professional person in charge of the hospital in which he is confined files a new petition for postcertification treatment on the grounds that he has threatened, attempted, or actually inflicted physical harm to another during his period of postcertification treatment, and he is a person who, by reason of mental disorder, presents an imminent threat of substantial physical harm to others. Such new petition for postcertification treatment shall be filed in the superior court wherein the original petition for postcertification treatment was filed.

The county from which the person is remanded shall bear any transportation costs incurred pursuant to this section.

SEC. 561. Section 5325 of the Welfare and Institutions Code is amended to read:

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient to any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered, and each mentally retarded person committed to a state hospital pursuant to Article 5 (commencing with Section 6500), Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in English and Spanish in all facilities providing such services and otherwise brought to his attention by such additional means as the Director of Mental Health

may designate by regulation:

(a) To wear his own clothes; to keep and use his own personal possessions including his toilet articles; and to keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls.

(e) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, action, or behavior; or

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, action, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Mental Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) Other rights, as specified by regulation.

SEC. 562. Section 5326 of the Welfare and Institutions Code is amended to read:

5326. The professional person in charge of the facility or his designee may, for good cause, deny a person any of the rights under Section 5325, except under subdivision (g) and the rights under subdivision (f) may be denied only under the conditions specified in Section 5326.7. To ensure that these rights are denied only for good cause, the Director of Mental Health shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record.

SEC. 563. Section 5326.1 of the Welfare and Institutions Code is amended to read:

5326.1. Quarterly, each local mental health director shall report to the Director of Mental Health, by facility, the number of persons whose rights were denied and the right or rights which were denied.

The content of these reports shall enable the Director of Mental Health to identify individual treatment records, if necessary, for further analysis and investigation. These quarterly reports, except for the identity of the person whose rights are denied, shall be available, upon request, to Members of the State Legislature, or a member of a county board of supervisors.

Information pertaining to a denial of rights contained in the person's treatment record shall be made available, on request, to the person, his attorney, his conservator or guardian, or the State Department of Mental Health. Such information, except for the identity of the person whose rights are denied, shall be made available to the Members of the State Legislature or a member of a county board of supervisors.

SEC. 564. Section 5326.15 of the Welfare and Institutions Code is amended to read:

5326.15. (a) Quarterly, any doctor or facility which administers convulsive treatments or psychosurgery, shall report to the local mental health director, who shall transmit a copy to the Director of Mental Health, the number of persons who received such treatments wherever administered, in each of the following categories:

(1) Involuntary patients who gave informed consent.

(2) Involuntary patients who were deemed incapable of giving informed consent and received convulsive treatment against their will.

(3) Voluntary patients who gave informed consent.

(4) Voluntary patients deemed incapable of giving consent.

(b) Quarterly, the Director of Mental Health shall forward to the Board of Medical Quality Assurance any records or information received from such reports indicating violation of the law, and the regulations which have been adopted thereto.

(c) The Director of Mental Health shall annually submit to the Legislature the accumulation of such reports which shall indicate:

(1) The age distribution, the sex, and race of the patients.

(2) The source of the treatment payment.

(3) The average number of treatments.

(4) The number of cardiac arrests without death, fracture cases, "reported" memory loss, incidents of apnea, and all autopsy findings in case of death following administration of convulsive treatment.

SEC. 565. Section 5326.3 of the Welfare and Institutions Code is amended to read:

5326.3. The State Department of Mental Health shall promulgate a standard written consent form, setting forth clearly and in detail the matters listed in Section 5326.2, and such further information with respect to each item as deemed generally appropriate to all patients.

The treating physician shall utilize the standard written consent form and in writing supplement it with those details which pertain to the particular patient being treated.

SEC. 566. Section 5326.8 of the Welfare and Institutions Code is

amended to read:

5326.8. Under no circumstances shall convulsive treatment be performed on a minor under 12 years of age. Persons 16 and 17 years of age shall personally have and exercise the rights under this article.

Persons 12 years of age and over, and under 16, may be administered convulsive treatment only if all the other provisions of this law are complied with and in addition:

(a) It is an emergency situation and convulsive treatment is deemed a lifesaving treatment.

(b) This fact and the need for and appropriateness of the treatment are unanimously certified to by a review board of three board-eligible or board-certified child psychiatrists appointed by the local mental health director.

(c) It is otherwise performed in full compliance with regulations promulgated by the Director of Mental Health under Section 5326.95.

(d) It is thoroughly documented and reported immediately to the Director of Mental Health.

SEC. 567. Section 5326.9 of the Welfare and Institutions Code is amended to read:

5326.9. (a) Any alleged or suspected violation of the laws governing the denial of rights herein described shall be reported to the Director of Mental Health, who shall investigate and report each such alleged or suspected violation and the results of the investigation to the Board of Medical Examiners. The latter board shall investigate further, if warranted, and shall subject any physician or physicians to any penalty the board finds necessary as a result of its findings.

(b) Any physician who intentionally violates Sections 5326.2 through 5326.8 shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for each violation. Such penalty may be assessed and collected in a civil action brought by the Attorney General in a superior court.

(c) Such intentional violation shall be grounds for revocation of license.

(d) The remedies provided by this subdivision shall be in addition to and not in substitution for any other remedies which an individual may have under law.

SEC. 568. Section 5326.91 of the Welfare and Institutions Code is amended to read:

5326.91. In any facility in which convulsive treatment is performed on a person whether admitted to the facility as an involuntary or voluntary patient, the facility will designate a qualified committee to review all such treatments and to verify the appropriateness and need for such treatment. The local mental health director shall establish a postaudit review committee for convulsive treatments administered anywhere other than in any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered. Records of

these committees will be subject to availability in the same manner as are the records of other hospital utilization and audit committees and to such other regulations as are promulgated by the Director of Mental Health. Persons serving on such review committees will enjoy the same immunities as other persons serving on utilization, peer review, and audit committees of health care facilities.

SEC. 569. Section 5326.95 of the Welfare and Institutions Code is amended to read:

5326.95. The Director of Mental Health shall adopt regulations to carry out the provisions of this chapter, including standards defining excessive use of convulsive treatment which shall be developed in consultation with the conference of local mental health directors.

SEC. 570. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed only:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his guardian or conservator must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care;

(b) When the patient, with the approval of the psychiatrist or licensed psychologist in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(d) If the recipient of services is a minor, ward, or conservatee, and his parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(e) For research, provided that the Director of Mental Health designates by regulation, rules for the conduct of research. Such rules shall include, but need not be limited to, the requirement that all researchers must sign an oath of confidentiality as follows:

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of said attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the

confidential information shall be sealed.

The amendment of subdivision (d) of this section enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 571. Section 5329 of the Welfare and Institutions Code is amended to read:

5329. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards set by the State Director of Mental Health.

SEC. 572. Section 5331 of the Welfare and Institutions Code is amended to read:

5331. No person may be presumed to be incompetent because he or she has been evaluated or treated for mental disorder or chronic alcoholism, regardless of whether such evaluation or treatment was voluntarily or involuntarily received. Any person who leaves a public or private mental health facility following evaluation or treatment for mental disorder or chronic alcoholism, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a statement of California law as stated in this paragraph.

Any person who has been, or is, discharged from a state hospital and received voluntary or involuntary treatment under former provisions of this code relating to inebriates or the mentally ill shall, upon request to the state hospital superintendent or the State Department of Mental Health, be given a statement of California law as stated in this section unless the person is found to be incompetent under proceedings for conservatorship or guardianship.

SEC. 573. Section 5352.5 of the Welfare and Institutions Code is amended to read:

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or his designee, or professional person in charge of the local mental health facility, or his designee, or the local mental health director, or his designee, to the conservatorship investigator of the county of residence of the person prior to his admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the jurisdiction of the State Department of Mental Health pursuant to Section 2684 of the Penal Code by the recommendation of the superintendent of the state hospital to the conservatorship investigator of the county of

residence of the person or of the county in which the state hospital is located.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Youth Authority, or on parole from a facility of the Youth Authority, by the Director of the Youth Authority or his designee, to the conservatorship investigator of the county of residence of such person or of the county in which such facility is situated.

The county mental health program providing conservatorship investigation services and conservatorship case management services for any such persons shall be reimbursed for the expenditures made by it for such services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of such expenditures. Each county Short-Doyle plan shall include provision for such services in the plan.

SEC. 574. Section 5355 of the Welfare and Institutions Code is amended to read:

5355. If the conservatorship investigation results in a recommendation for conservatorship, the recommendation shall designate the most suitable person, corporation, state or local agency or county officer, or employee designated by the county to serve as conservator. No person, corporation, or agency shall be designated as conservator whose interests, activities, obligations or responsibilities are such as to compromise his or their ability to represent and safeguard the interests of the conservatee. Nothing in this section shall be construed to prevent the State Department of Mental Health from serving as guardian pursuant to Section 7284, or the function of the conservatorship investigator and conservator being exercised by the same public officer or employee.

When a public guardian is appointed conservator, his official bond and oath as public guardian are in lieu of the conservator's bond and oath on the grant of letters of conservatorship. No bond shall be required of any other public officer or employee appointed to serve as conservator.

SEC. 575. Section 5358 of the Welfare and Institutions Code is amended to read:

5358. A conservator appointed pursuant to this chapter shall have the right, if specified in the court order, to place his conservatee in a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of Mental Health or an agency accredited by the State Department of Mental Health; or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

A conservator shall also have the right, if specified in the court order, to require his conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his conservatee to

receive other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order specifically authorizing such surgery obtained pursuant to Section 5358.2.

If the conservatee is not to be placed in his own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his home or the home of a relative.

If requested, the local mental health director shall assist the conservator in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the local mental health director of the facility's location and any movement of the conservatee to another facility.

SEC. 576. Section 5366 of the Welfare and Institutions Code is amended to read:

5366. On or before June 30, 1970, the medical director of each state hospital for the mentally disordered shall compile a roster of those mentally disordered or chronic alcoholic patients within the institution who are gravely disabled. The roster shall indicate the county from which each such patient was admitted to the hospital or, if the hospital records indicate that the county of residence of the patient is a different county, the county of residence. The officer providing conservatorship investigation for each county shall be given a copy of the names and pertinent records of the patients from that county and shall investigate the need for conservatorship for such patients as provided in this chapter. After his investigation and on or before July 1, 1972, the county officer providing conservatorship shall file a petition of conservatorship for such patients that he determines may need conservatorship. Court commitments under the provisions of law in effect prior to July 1, 1969, of such patients for whom a petition of conservatorship is not filed shall terminate and the patient shall be released unless he agrees to accept treatment on a voluntary basis.

Each state hospital and the State Department of Mental Health shall make their records concerning such patients available to the officer providing conservatorship investigation.

SEC. 577. Section 5366.1 of the Welfare and Institutions Code is amended to read:

5366.1. Any person detained as of June 30, 1969, under court commitment, in a private institution, a county psychiatric hospital, facility of the Veterans Administration, or other agency of the United States government, community mental health service, or detained in a state hospital or facility of the Veterans Administration upon application of a local health officer, pursuant to former Section 5567 or Sections 6000 to 6019, inclusive, as they read immediately

preceding July 1, 1969, may be detained, after January 1, 1972, for a period no longer than 180 days, except as provided in this section.

Any person detained pursuant to this section on the effective date of this section shall be evaluated by the facility designated by the county and approved by the State Department of Mental Health pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. Such evaluation shall be made at the request of the person in charge of the institution in which the person is detained. If in the opinion of the professional person in charge of the evaluation and treatment facility or his designee, the evaluation of the person can be made by such professional person or his designee at the institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the institution where he is detained, or other place to determine if the person is a danger to others, himself, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the institution in which he is detained immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his designee, the person evaluated is not a danger to others, or to himself, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to remain in the institution in which he has been detained.

If in the opinion of the professional person in charge of the facility or his designee, the person evaluated requires intensive treatment or recommendation for conservatorship, such professional person or his designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

If it is determined from the evaluation that the person is gravely disabled and a recommendation for conservatorship is made, and if the petition for conservatorship for such person is not filed by June 30, 1972, the court commitment or detention under a local health officer application for such person shall terminate and the patient shall be released unless he agrees to accept treatment on a voluntary basis.

SEC. 578. Section 5369.1 of the Welfare and Institutions Code is amended to read:

5369.1. The Director of Mental Health shall by regulation, establish maximum caseload levels for each caseworker for public agencies responsible for conservatorship investigation and for case management of conservatees.

SEC. 579. Section 5400 of the Welfare and Institutions Code is amended to read:

5400. The Director of Mental Health shall administer this part and shall adopt rules, regulations and standards as necessary. In developing rules, regulations, and standards, the Director of Mental Health shall consult with the California Conference of Local Mental Health Directors, the Citizens Advisory Committee, and the office

of the Attorney General. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

Wherever feasible and appropriate, rules, regulations and standards adopted under this part shall correspond to comparable rules, regulations, and standards adopted under the Short-Doyle Act. Such corresponding rules, regulations, and standards shall include qualifications for professional personnel.

Regulations adopted pursuant to this part may provide standards for services for chronic alcoholics which differ from the standards for services for the mentally disordered.

SEC. 580. Section 5401 of the Welfare and Institutions Code is amended to read:

5401. The State Department of Mental Health may provide a county or combination of counties acting jointly, the evaluation, referral, intensive treatment, prepetition screening, crisis intervention, and other services described in this part.

No person shall receive treatment in a state hospital pursuant to this section unless the county, or combination of counties has utilized, insofar as practicable, the existing facilities in the county which are subject to reimbursement under the Short-Doyle Act.

A county or combination of counties receiving services from the State Department of Mental Health pursuant to this section shall pay for such services in an amount not to exceed the actual cost of services. Funds received by the State Department of Mental Health under this section shall constitute a reimbursement to the appropriation from which such cost is expendable and may be used for the purposes of the appropriation.

Any services provided pursuant to this section shall be included in the county Short-Doyle plan for the county or counties.

SEC. 581. Section 5402 of the Welfare and Institutions Code is amended to read:

5402. The State Department of Mental Health shall collect and publish annually quantitative information concerning the operation of this division including the number of persons admitted for 72-hour evaluation and treatment, 14-day intensive treatment, and 90-day postcertification intensive treatment, the number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in each county.

Each local mental health director, and each facility providing services to persons pursuant to this division shall provide the department, upon its request, with such information, records and reports as the department deems necessary for the purposes of this section. The department shall not have access to any patient name identifiers.

Information published pursuant to this section shall not contain

patient name identifiers and shall contain statistical data only.

The department shall make such reports available to medical, legal, and other professional groups involved in the implementation of this division.

SEC. 582. Section 5402.1 of the Welfare and Institutions Code is amended to read:

5402.1. The Director of Mental Health shall conduct a study in order to compare the relative cost and duration of treatment between those patients committed to state hospitals and those patients committed to other facilities or placed on outpatient treatment pursuant to Sections 1026, 1026.1, 1370, 1370.3 of the Penal Code and Section 6316 of the Welfare and Institutions Code. The director shall report his findings to the Legislature by January 1, 1978.

SEC. 583. Section 5403 of the Welfare and Institutions Code is amended to read:

5403. The State Department of Mental Health shall undertake a study in five or more counties to determine the extent to which the need for mental health services for mentally disordered inmates of county and city jails and mentally disordered juveniles in juvenile detention facilities is being met. The study shall include a determination of a number of county or city jail inmates and juvenile detainees in the counties surveyed who are mentally disordered. The department shall report the findings of the study and its recommendations for mental health services for county and city jail inmates and juvenile detainees to the Legislature by March 1, 1976.

The person in charge of each jail or juvenile detention facility included in the study required by this section, each local mental health director and each facility and person providing mental health services to jail inmates, shall cooperate with the department for the purposes of the study. The department shall have full access to any jail or juvenile detention facility or mental health records and information it deems necessary for the purpose of the study. However, the department shall not publish any patient name identifiers.

SEC. 584. Section 5404 of the Welfare and Institutions Code is amended to read:

5404. Each county may designate facilities, which are not hospitals or clinics, as 72-hour evaluation and treatment facilities and as 14-day intensive treatment facilities if such facilities meet such requirements as the Director of Mental Health shall establish by regulation. The Director of Mental Health shall encourage the use by counties of appropriate facilities, which are not hospitals or clinics, for the evaluation and treatment of patients pursuant to this part.

SEC. 585. Section 5404.1 of the Welfare and Institutions Code is amended to read:

5404.1. The Director of Mental Health shall encourage and promote the establishment of a comprehensive array of community treatment facilities, including halfway houses and secure treatment facilities for the treatment of mentally disordered criminal offenders

and juvenile offenders, wards, or parolees.

SEC. 586. Section 5601 of the Welfare and Institutions Code is amended to read:

5601. As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly; and in the case of a city, the city council or city councils acting jointly.

(b) "Conference" means the California Conference of Local Mental Health Directors as established under Section 5757.

(c) "County Short-Doyle Plan" means the mental health plan which must be adopted by each county, or combination of counties acting jointly, in accordance with Section 5650.

(d) "Part 1" refers to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of this division).

(e) "Director of Mental Health" means the Director of the State Department of Mental Health.

SEC. 587. Section 5602 of the Welfare and Institutions Code is amended to read:

5602. By July 1, 1969, the board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties. Services to mentally disordered persons in the county or counties by county agencies and county institutions, by private agencies or facilities, and by the hospitals of the State Department of Mental Health shall be provided in accordance with the county Short-Doyle plan. Services of the State Department of Mental Health shall be provided to the county, or counties acting jointly, pursuant to Section 5401, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to such terms and conditions as are approved by the Director of General Services.

SEC. 588. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) Each community mental health service shall have an advisory board of 17 members appointed by the governing body except that such boards in counties with a population of less than 100,000 may have a minimum of 11 members. One member of the advisory board shall be the chairman of the local governing body. Not less than 51 percent of the members of the advisory board shall be persons representative of the public interest in mental health; provided, however, that not less than one-half of the members representing the public interest shall be persons or the parents, spouse, or adult children of persons, who have received mental health services. The advisory board shall contain two physicians, one of whom shall specialize in psychiatry, and the remaining members shall be selected from among the following disciplines: psychology, social work, nursing, education, marriage and family counseling,

psychiatric technology, criminal justice, hospital or community mental health facility administration, and fiscal management. For members not representing the public interest, the governing body shall appoint persons representing different disciplines. The chairman of a governing body may designate a member of that body to serve in his stead as a member of the advisory board.

(b) The term of each member of the board shall be for three years; provided, however, that of the members first appointed to a board with 17 members, six shall be appointed for one year, six for a term of two years, and five for a term of three years. For members appointed to boards of less than 17 members, the governing body shall equitably stagger the appointments so that approximately one-third of the appointments shall be for one year, one-third for two years, and one-third for three years. For the members first appointed as a result of the amendment to this section by the 1975–76 Regular Session of the Legislature, one-third shall be for a term of one year, one-third for a term of two years, and one-third for a term of three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified the person for appointment on the board, the membership on the board shall terminate and there shall be a vacancy on the board.

(c) If two local agencies jointly establish a community health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for such community mental health service shall consist of an additional two members, one of whom shall be the chairman of the second governing body, such that the chairmen of both local agencies are members, and the second of whom shall be an additional person or a parent, spouse, or adult child of a person who has received mental health services.

(d) No member of the advisory board or his or her spouse shall be a full-time or part-time county employee of the county mental health service, an employee of the State Department of Mental Health, or an employee of a Short-Doyle contract facility.

(e) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Mental Health, or on the staff of a Short-Doyle contract facility.

SEC. 589. Section 5607 of the Welfare and Institutions Code is amended to read:

5607. The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body. He shall meet such standards of training and experience as the State Department of Mental Health, by regulation, shall require. Applicants for such positions need not be residents of the city, county, or state, and may be employed on a full or part-time basis. If a county is unable to secure the services of a person who

meets the standards of the State Department of Mental Health, the county may select an alternate administrator subject to the approval of the Director of Mental Health.

SEC. 590. Section 5609 of the Welfare and Institutions Code is amended to read:

5609. Subject to the approval of the Director of Mental Health any community mental health service may by contract furnish community mental health services to any other county.

SEC. 591. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. On or before March 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, an annual county Short-Doyle plan for the next fiscal year for mental health services in the county or counties. The county plan submitted shall be compatible with the budget for the next fiscal year submitted by the Governor to the Legislature. The purpose of a county plan shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle plan shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

SEC. 592. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include the number of persons to be served in each of the following target groups: general mental disorder, children and adolescents, drug abuse, and mentally retarded. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall

include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Mental Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A detailed description of the methodology to be used by the county for evaluating the results of the programs and services being provided for each target group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services.

(i) A description of the procedures used to insure citizen and professional involvement in the county's mental health planning process at all stages of its development. Such procedures shall be reviewed and approved by the local mental health advisory board.

SEC. 593. Section 5652 of the Welfare and Institutions Code is amended to read:

5652. When the county Short-Doyle plan is submitted to the Director of Mental Health, it shall be accompanied by a document indicating the plan has been reviewed by the local mental health advisory board.

SEC. 594. Section 5655 of the Welfare and Institutions Code is amended to read:

5655. All departments of state government and all local public agencies shall cooperate with county officials to assist them in mental health planning. The State Department of Mental Health shall, upon

request and with available staff, provide consultation services to the local mental health directors, local governing bodies and local mental health advisory boards.

SEC. 595. Section 5655.1 of the Welfare and Institutions Code is amended to read:

5655.1. The duties of any individual employed within the State Department of Mental Health to serve as a liaison between the state and a county regarding mental health programs established pursuant to this part shall include, as a minimum, the following:

(a) Consultation services to the local mental health directors, local governing bodies, and local mental health advisory boards.

(b) Upon request and with available staff, obtain additional consultation services for the local mental health directors, local governing bodies, and local mental health advisory boards.

(c) Advocacy for and responsiveness to local program needs.

(d) Participation in the California Conference of Local Mental Health Directors.

SEC. 596. Section 5661 of the Welfare and Institutions Code is amended to read:

5661. For each fiscal year, the Director of Mental Health shall use the information developed in the evaluation studies as guidelines for the allocation of funds for target group programs as present in the county Short-Doyle plans. Standards should be developed to assure maximum cost-effectiveness of all programs, based on the evaluation studies.

SEC. 597. Section 5662 of the Welfare and Institutions Code is amended to read:

5662. Each year the State Department of Mental Health shall review and revise all standards for professional and other program requirements to assure that such standards conform to the findings of the evaluation studies.

SEC. 598. Section 5664 of the Welfare and Institutions Code is amended to read:

5664. Each county Short-Doyle plan adopted for each fiscal year for a county or counties in which a state hospital is scheduled to be closed shall contain a complete program, to be developed jointly by the State Department of Mental Health and the county, for absorbing as many of the staff of such hospital into the local mental health programs as may be needed by the county. Such programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians for treatment of the mentally disordered, mentally retarded, drug abusers, and alcoholics.

The Director of Mental Health shall submit all plans for the closure of state hospitals as a report with its budget. Such report shall include:

(a) The land and buildings affected;

(b) The number of patients affected;

(c) Alternative plans for patients presently in such facilities;

(d) Alternative plans for patients who would have been served by

such facility assuming it was not closed; and

(e) A joint statement of the impact of such closure by the department and affected local treatment programs.

Such plans may be submitted to the Legislature until April 1 of each budget year. Any plans submitted after that date shall not be considered until the fiscal year following that which is being considered.

Such a plan shall not be placed into effect unless the Legislature specifically approves such plan.

SEC. 599. Section 5700.1 of the Welfare and Institutions Code is amended to read:

5700.1. The State Department of Mental Health succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Benefit Payments with respect to the processing, audit, and certification for payment of claims for mental health expenditures made by counties and cities under this chapter.

SEC. 600. Section 5700.2 of the Welfare and Institutions Code is amended to read:

5700.2. The State Department of Mental Health shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Mental Health by Section 5700.1.

SEC. 601. Section 5700.3 of the Welfare and Institutions Code is amended to read:

5700.3. All officers and employees of the Director of Benefit Payments who, on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Mental Health by Section 5700.1 shall be transferred to the State Department of Mental Health. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Mental Health pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 602. Section 5701 of the Welfare and Institutions Code is amended to read:

5701. There shall be a single state appropriation for services for mentally disordered persons. The single appropriation shall be made to the State Department of Mental Health, for mental health services and shall consolidate appropriations previously made to the department for mental health services under the Short-Doyle Act, and for the operation of the state hospitals for the mentally disordered, and other direct services of the department.

SEC. 603. Section 5702 of the Welfare and Institutions Code is amended to read:

5702. The department shall continue to receive separate appropriations for central office functions, research and training functions, and state hospital services for the mentally retarded and the judicially committed.

SEC. 604. Section 5702.1 of the Welfare and Institutions Code is amended to read:

5702.1. The Secretary of the Health and Welfare Agency, in the same manner and subject to the same conditions as other state agencies, shall submit a program budget annually to the Department of Finance, including not only expenditures proposed to be made under this division, but also expenditures proposed to be made under any related program or by any other state agency, designed to provide services incidental to the functions to which this division relates. The secretary may require state departments to contract with him for services to carry out the provisions of this division.

Notwithstanding any other provision of law, authorized services to eligible persons, as defined in this division, provided by all state agencies, including, but not limited to, the State Departments of Education, Health Services, Rehabilitation, Mental Health, Developmental Services, Social Services, Aging, and Alcohol and Drug Abuse, shall, to the fullest extent permitted by federal law, by contract or otherwise, be made available upon request of the Director of Mental Health, and the approval of the secretary, to the State Department of Mental Health for services to eligible persons.

The secretary shall consult with the departments involved in developing the program budget.

SEC. 605. Section 5703 of the Welfare and Institutions Code is amended to read:

5703. If after the review specified in Section 5752, the county Short-Doyle plan is approved, the Director of Mental Health shall determine the amount of state funds available for each county or city for specific services under the approved county Short-Doyle plan, from the funds appropriated for mental health services.

SEC. 606. Section 5703.1 of the Welfare and Institutions Code is amended to read:

5703.1. By May 15 of each year, the State Department of Mental Health shall review and approve each county plan. Such approval shall be subject to the amount appropriated for the purposes of such plans in the Budget Act for such fiscal year as enacted into law.

If the amount appropriated in the Budget Act for such fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for such fiscal year, each county shall submit an additional revised plan in the form and at the time required by the State Department of Mental Health.

SEC. 607. Section 5704 of the Welfare and Institutions Code is amended to read:

5704. When allocating funds for new and expanded programs, the Director of Mental Health shall fund direct services in the following order of priority:

(a) Crisis intervention;
(b) Outpatient and day treatment, and aftercare services;
(c) Partial hospitalization;
(d) Residential treatment;
(e) Inpatient.

SEC. 608. Section 5705.5 of the Welfare and Institutions Code is amended to read:

5705.5. It is the intent of the Legislature to encourage counties to contract with nonprofit community organizations in order to provide innovative, noninpatient treatment services for persons specified in this part. Such services should be consistent with program priorities developed by the Director of Mental Health after consultation with the Citizens Advisory Council and the Conference of Local Mental Health Directors. Such contracts shall provide for at least one of the following: (a) outpatient services, including indigenous, self-help services, (b) rehabilitative services, (c) precare and aftercare services, including residential facilities and halfway houses. Each contract shall also provide methods for evaluating the effectiveness of the services provided.

Contracts entered into under this section shall be financed within an approved Short-Doyle plan. For the purposes of this section the cost-sharing formula of such contracts shall be 85 percent state funds, 5 percent county funds and 10 percent funding from the contracting organization which shall not include state or federal funds.

The total amount of state funds for contracts under this section shall not exceed 5 percent of the total General Fund appropriation for services specified under this part. No single contract shall continue to be funded under the provisions of this section for more than three years.

SEC. 609. Section 5708 of the Welfare and Institutions Code is amended to read:

5708. During the course of each fiscal year, a county may reallocate funds initially allocated for the approved county Short-Doyle plan between state-operated and other approved services with the approval of the Director of Mental Health.

The director shall approve such requests for reallocation if the services to be provided by a county requesting the reallocation are in accordance with the priorities in the county Short-Doyle and state plans.

The Director of Mental Health may reallocate among county Short-Doyle plans the state share of any savings occurring during the year in services provided under the county Short-Doyle plans. Reallocations shall be to counties desiring to provide services supplementary to services specified in approved county Short-Doyle plans in accordance with county and state mental health priorities.

SEC. 610. Section 5712 of the Welfare and Institutions Code is amended to read:

5712. Expenditures incurred pursuant to this part, shall, in accordance with the regulations of the Director of Mental Health, be

subject to payment whether incurred by direct or joint operation of such facilities and services, by provisions therefor through contract, or by other arrangement pursuant to the provisions of this division. The Director of Mental Health may make investigations and audits of such expenditures as he may deem necessary.

SEC. 611. Section 5714 of the Welfare and Institutions Code is amended to read:

5714. Of the funds allocated to each county in accordance with Sections 5704 to 5708, inclusive, the State Department of Mental Health shall reimburse to each county 90 percent of the amount required by that county to carry out its local mental health activity in accordance with the approved county Short-Doyle plan required by Chapter 2 (commencing with Section 5650) of this part. So much of each county allocation as is required to care for patients in state hospitals shall be retained by the state and used to support such hospitals. During each fiscal year such reimbursement shall be for one-month periods, commencing with the month of July of the same year.

Claims for reimbursement shall be presented to the State Department of Mental Health within 30 days after the close of the period for which such reimbursement is sought.

At the request of a local mental health director, the State Department of Mental Health may allow the claim for any reimbursement period to be presented within 60 days after the close of the period for which reimbursement is sought if the department finds that the presenting of the claim within the 30 days after the close of such period would create a hardship on the county.

SEC. 612. Section 5714.1 of the Welfare and Institutions Code is amended to read:

5714.1. Claims for state reimbursement shall be made in such form and in such manner as the Director of Mental Health shall determine. When certified by the Director of Mental Health, claims for state reimbursements shall be presented to the State Controller for payment. The State Controller shall make such audit as he deems necessary, before or after disbursement, for the purpose of determining that such reimbursement is for expenditures made for the purposes and under the conditions authorized under this part.

Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year in which the expenses upon which the claim is based are incurred.

SEC. 613. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; salaries of personnel; approved facilities and services provided through contract; operation, maintenance and service costs; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; expenses incurred under

this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of such conferences; and such other expenditures as may be approved by the Director of Mental Health. It shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling expense as may be provided for in regulation of the State Department of Mental Health; compensation to members of a local mental health advisory board (except actual and necessary expenses incurred in the performance of official duties); or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 614. Section 5715.5 of the Welfare and Institutions Code is amended to read:

5715.5. Whenever a county or a city receives funds under a grant program for mental health services from either the federal or state government, or from any other grantor, public or private, and fails to include such grant program in the county plan and mental health budget, the Director of Mental Health shall not thereafter approve any claims submitted by the county or city for state reimbursement under this part unless and until the county plan and mental health budget has been revised to include such grant program and the revised county plan and budget is approved by the Director of Mental Health.

SEC. 615. Section 5718 of the Welfare and Institutions Code is amended to read:

5718. Charges shall be made for services rendered to each person under a county Short-Doyle plan in accordance with this section. Charges for the care and treatment of each such patient receiving service under a county Short-Doyle plan shall not exceed the actual cost thereof as determined by the Director of Mental Health in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his determination of actual cost. The responsibility of a patient, his estate, or his responsible relatives to pay such charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

The director may delegate to each county all or part of the responsibility for determining the liability of patients rendered services under a county Short-Doyle plan other than in a state hospital, and of their estates or responsible relatives to pay such charges, and all or part of the responsibility for collecting such charges. If such responsibility is delegated by the director, he shall establish and maintain the policies and procedures for making such determinations and collections, and each county to which the responsibility is delegated shall comply with such policy and procedures.

Each county shall furnish the Director of Mental Health with such information as he shall require to enable him to maintain a

cost-reporting system of the costs of mental health services in the county, except state hospitals, funded in whole or part by state funds.

Pending the development of a cost-reporting system, the director shall prepare and adopt a uniform patient fee schedule to be used in all mental health agencies for services rendered to each patient. In preparing such uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for Short-Doyle Act community mental health program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, he may adopt a separate fee schedule for state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies. Such patient fee schedules shall not be used after the development and implementation of the cost reporting system provided for in this section or after December 31, 1971, whichever occurs first.

SEC. 616. Section 5719 of the Welfare and Institutions Code is amended to read:

5719. To continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall be non-state-reimbursable charges:

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation;

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary;

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment;

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the State Department of Mental Health;

(e) The court costs in postcertification proceedings;

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

SEC. 617. Section 5719.1 of the Welfare and Institutions Code is amended to read:

5719.1. Notwithstanding the provisions of Section 5705, the State Department of Mental Health shall reimburse the net costs of conservatorship investigation, as defined by regulations of the State Department of Mental Health, on a basis of 90 percent state funds and 10 percent county funds for conservatorship investigation services provided in each fiscal year.

SEC. 618. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto; provided,

however, that such standards, rules and regulations shall be adopted only after consultation with both the Citizens Advisory Council and the California Conference of Local Mental Health Directors. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the department for its approval, the department may submit such standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Human Relations Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the Citizens Advisory Council, and a member designated by the State Advisory Health Council.

SEC. 618.5. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. The Director of Mental Health, after approval by the California Conference of Local Mental Health Directors, shall by regulation establish standards of education and experience for professional, administrative, and technical personnel employed in mental health services and for the organization and operation of mental health services. No regulations shall be adopted which prohibit a psychiatrist, psychologist or clinical social worker from employment in a local mental health program in any professional, administrative or technical positions in mental health services.

Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. Such standards may include the maintenance of records of service which shall be reported to the State Department of Mental Health in a manner and at such times as it may specify.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker or hospital administrator, who meets standards of education and experience established by the Director of Mental Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of the Government Code.

SEC. 619. Section 5751.1 of the Welfare and Institutions Code is amended to read:

5751.1. Regulations pertaining to the position of director of local mental health services, where the local director is other than the

local health officer or medical administrator of the county hospitals, shall require that the director meet the standards of education and experience established by the Director of Mental Health. Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607.

Where the director of local mental health services is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

SEC. 620. Section 5751.3 of the Welfare and Institutions Code is amended to read:

5751.3. No regulations shall be adopted by the Director of Mental Health which prohibit a psychiatrist, psychologist or clinical social worker from employment in a local mental health program in any professional, administrative, or technical positions in mental health services.

SEC. 621. Section 5755 of the Welfare and Institutions Code is amended to read:

5755. By October 1 of each year, the State Department of Mental Health shall adopt and submit to the Legislature a three-year state plan for community mental health services. The director shall consult with the California Conference of Local Mental Health Directors and the Citizens Advisory Council in developing the state plan.

The state three-year plan shall contain statewide information for the same items required in a county Short-Doyle plan as described in Section 5651 and, taking into consideration the community mental health needs set forth in the county plans, guidelines relating to program funding priorities for each fiscal year of the three-year plan.

SEC. 622. Section 5755.6 of the Welfare and Institutions Code is amended to read:

5755.6. The State Department of Mental Health and the State Department of Developmental Services shall notify the counties and the Legislature at least nine months in advance of planned state hospital closures. To the extent feasible, the full supporting details of any planned state hospital closures shall be included in the budget required by the State Constitution to be submitted by the Governor to the Legislature for each fiscal year.

SEC. 623. Section 5757 of the Welfare and Institutions Code is amended to read:

5757. There is hereby established the California Conference of Local Mental Health Directors, with which the Director of Mental Health shall consult in establishing standards, rules, and regulations pursuant to this division.

SEC. 624. Section 5758 of the Welfare and Institutions Code is amended to read:

5758. The California Conference of Local Mental Health

Directors shall consist of all regularly appointed directors of community mental health services and program chiefs as defined by regulation. It shall organize and shall annually elect a president, a vice president, and a secretary, who shall serve as the executive committee of the conference. The president of the conference, after consultation with the Director of Mental Health, may appoint, for the purpose of advising the director, such other committees of the conference as may from time to time be necessary.

SEC. 625. Section 5759 of the Welfare and Institutions Code is amended to read:

5759. Meetings of the conference for the purposes of this division shall be called by the Director of Mental Health, who shall give the members at least 10 days' notice of such meetings. At official sessions of meetings of the conference the president of the conference shall preside; provided, however, that the conference may hold additional sessions as may be determined by the executive committee of the conference at which the president or other members of the conference shall preside. Each community mental health service shall have one vote cast by the director or his designee.

SEC. 626. Section 5760 of the Welfare and Institutions Code is amended to read:

5760. Actual and necessary expenses incurred by a member as incident to his attendance at meetings of the conference shall be a legal charge against the local government unit which he represents. Actual and necessary expense incurred by members of the conference incident to attendance at special meetings of the committees of the conference called by the Director of Mental Health shall be a legal charge against any funds available for the administration of this division.

SEC. 627. Section 5761 of the Welfare and Institutions Code is amended to read:

5761. The State Department of Mental Health, after approval by the California Conference of Local Mental Health Directors, may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by the department and for the establishment and maintenance of field training centers.

SEC. 628. Section 5762 of the Welfare and Institutions Code is amended to read:

5762. The President of the California Conference of Local Mental Health Directors, for the purposes of this division, may, after consultation with the Director of Mental Health, appoint such psychiatric and such other consultants as may be deemed necessary who shall serve without pay but who shall receive actual and necessary travel and other expenses incurred.

SEC. 629. Section 5763 of the Welfare and Institutions Code is amended to read:

5763. There is a Citizens Advisory Council to advise and assist the Director of Mental Health in carrying out the provisions of this

division.

The council shall consist of fifteen (15) appointed voting members. Each of the following professions shall be represented by one member: general medicine, general psychiatry, child psychiatry, psychology, social work, sociology, law, and nursing. Two members shall be county supervisors; one member shall be an administrator of a private hospital providing psychiatric services; one member shall be a member of the California Conference of Local Mental Health Directors who is appointed under this part; and three members shall represent the general public.

The Governor shall appoint the following nine (9) members of the council: representatives of the professions of general medicine (1), psychiatry (1), child psychiatry (1), psychology (1), social work (1), and nursing (1); an administrator of a private hospital providing psychiatric services; a county supervisor; and a representative of the general public. The Chairman of the Senate Rules Committee shall appoint the following three (3) members of the council: a representative of the profession of law; a county supervisor; and a representative of the general public. The Speaker of the Assembly shall appoint the following three (3) members of the council: a representative of the profession of sociology; a member of the California Conference of Local Mental Health Directors; and a representative of the general public.

Of the members first appointed by the Governor, three shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. Of the members first appointed by the Speaker of the Assembly, one shall hold office for three years, one shall hold office for two years, and one shall hold office for one year. Of the members first appointed by the Chairman of the Senate Rules Committee, one shall hold office for three years, one shall hold office for two years, and one shall hold office for one year. Thereafter, each member shall hold office for three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified him for appointment on the council, his membership on the council shall terminate and there shall be a vacancy on the council.

The members of the Citizens Advisory Council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter.

The Citizens Advisory Council shall meet at least quarterly, and on call of the council chairman as often as necessary to fulfill its duties. All meetings and records of the Citizens Advisory Council shall be open to the public.

The Citizens Advisory Council shall, by majority vote of the voting members, elect its own chairman from among the 15 appointed members, and shall establish such committees as it deems necessary or desirable. The council chairman shall appoint all members of committees of the Citizens Advisory Council.

SEC. 630. Section 5764 of the Welfare and Institutions Code is

amended to read:

5764. The Citizens Advisory Council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter including, but not limited to the following:

(a) To advise the Director of Mental Health on the development of the state five-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary. The Citizens Advisory Council may prepare such reports as necessary to the Governor, the Legislature, and the Director of Mental Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage, whenever necessary and possible the coordination on a regional basis of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ such administrative, technical and other personnel as may be necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

SEC. 631. Section 5766 of the Welfare and Institutions Code is amended to read:

5766. The Citizens Advisory Council may utilize such staff of the central and regional offices of the State Department of Mental Health as are available, and such staff of all other public or private agencies which have an interest in the mental health of the public and which are able and willing to provide such services.

SEC. 632. Part 3 (commencing with Section 5800) of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 633. Part 4 (commencing with Section 5900) of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 634. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or mentally retarded may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5328 to place his conservatee in a state hospital, by his conservator.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5328 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Part 4 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in

charge by the parents, or the parent, guardian, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

SEC. 635. Section 6002 of the Welfare and Institutions Code is amended to read:

6002. The person in charge of any private institution, hospital, clinic, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally disordered may receive therein as a voluntary patient any person suffering from a mental disorder who is a suitable person for care and treatment in the institution, hospital, clinic, or sanitarium who voluntarily makes a written application to the person in charge for admission into the institution, hospital, clinic, or sanitarium, and who is at the time of making the application mentally competent to make the application. A conservatee, with a conservator of the person, or person and estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place his conservatee, may be admitted upon written application by his conservator.

After the admission of a voluntary patient to a private institution, hospital, clinic, or sanitarium the person in charge shall forward to the office of the State Department of Mental Health a record of the voluntary patient showing such information as may be required by rule by the department.

A voluntary adult patient may leave the hospital, clinic, or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

SEC. 636. Section 6007 of the Welfare and Institutions Code is amended to read:

6007. Any person detained as of June 30, 1969, in a private institution, pursuant to former Sections 6030 to 6033, inclusive, as they read immediately preceding July 1, 1969, on the certification of one physician, may be detained after July 1, 1969, for a period no longer than 90 days.

Any person detained as of June 30, 1969, in a private institution, pursuant to such sections, on the certification of two physicians, may

be detained after July 1, 1969, for a period no longer than 180 days.

Any person detained pursuant to this section after July 1, 1969, shall be evaluated by the facility designated by the county and approved by the State Department of Mental Health pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. Such evaluation shall be made at the request of the person in charge of the private institution in which the person is detained or by one of the physicians who signed the certificate. If in the opinion of the professional person in charge of the evaluation and treatment facility or his designee, the evaluation of the person can be made by such professional person or his designee at the private institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the private institution to determine if the person is a danger to others, himself, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the private institution immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his designee, the person evaluated is not a danger to others, or to himself, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to remain in the private institution.

If in the opinion of the professional person in charge of the facility or his designee, the person evaluated requires intensive treatment or recommendation for conservatorship, such professional person or his designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

SEC. 637. Section 6254 of the Welfare and Institutions Code is amended to read:

6254. Wherever provision is made in this code for an order of commitment by a superior court, the order of commitment shall be in substantially the following form:

In the Superior Court of the State of California
for the County of _____

The People For the Best Interest and Protection of _____ as a _____, and Concerning _____ and _____, Respondents	Order for Care Hospitalization or Commitment

The petition dated _____, alleging that _____, having been presented to this court on the _____ day of _____, 19__, and an order of detention issued thereon by a judge of the superior court of this county, and a return of the said order:

And it further appearing that the provisions of Sections 6250 to 6254, inclusive, of the Welfare and Institutions Code have been complied with;

And it further appearing that Dr. _____ and Dr. _____, two regularly appointed and qualified medical examiners of this county, have made a personal examination of the alleged _____, and have made and signed the certificate of the medical examiners, which certificate is attached hereto and made a part hereof;

Now therefore, after examination and certificate made as aforesaid the court is satisfied and believes that _____ is a _____ and is so _____.

It is ordered, adjudged and decreed:

That _____ is a _____ and that he

* (a) Be cared for and detained in _____, a county psychiatric hospital, a community mental health service, or a licensed sanitarium or hospital for the care of the mentally disordered until the further order of the court, or

* (b) Be cared for at _____, until the further order of the court, or

* (c) Be committed to the State Department of Mental Health for placement in a state hospital, or

* (d) Be committed to a facility of the Veterans Administration or other agency of the United States, to wit: _____ at _____ in accordance with the provisions of Section 1663 of the Probate Code of the State of California.

It is further ordered and directed that _____ of this county, take, convey and deliver _____ to the proper authorities of the hospital or establishment designated herein to be cared for as provided by law.

Dated this _____ day of _____, 19__.

_____

Judge of the Superior Court

* Strike out where inapplicable.

SEC. 638. Section 6324 of the Welfare and Institutions Code is amended to read:

6324. The provisions of Section 4025 and of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relative to the property and care and support of persons in state hospitals, the liability for such care and support, and the powers and duties of the State Department of Mental Health and all officers and employees thereof in connection therewith shall apply to persons committed to state hospitals or to other facilities pursuant to this article the same as if such persons were expressly referred to in Section 4025 and Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

SEC. 639. Section 6327 of the Welfare and Institutions Code is amended to read:

6327. After a person has been committed for an indeterminate period to the department for placement in a state hospital or to a county mental health director for placement in an appropriate facility as a mentally disordered sex offender and has been confined for a period of not less than six months from the date of the order of commitment, the committing court may upon its own motion or on motion by or on behalf of the person committed, require the superintendent of the state hosptial or other facility to which the person was committed to forward to the committing court and to the county mental health director or his designee, within 30 days, his opinion under (a) or (b) of Section 6325, including therein a report, diagnosis and recommendation concerning the person's future care, supervision, or treatment. After receipt of the report, the committing court may order the return of the person to the court for a hearing as to whether the person is still a mentally disordered sex offender within the meaning of this article.

The hearing shall be conducted substantially in accordance with Sections 6306 to 6314, inclusive. If, after the hearing, the judge finds that the person has not recovered from his mental disorder and is still a danger to the health and safety of others, he shall order the person returned to the State Department of Mental Health or county mental health director under the prior order of commitment. The court shall transmit a copy of its order to the county mental health director or his designee. A subsequent hearing may not be held under this section until the person has been confined for an additional period of six months from the date of his return to the department or county mental health director. If the court finds that the person has recovered from his mental disorder to such an extent that he is no longer a danger to the health and safety of others, or that he will not benefit by further care and treatment in the hospital or other facility and is not a danger to the health and safety of others, the committing court shall thereafter cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge. The court shall transmit a copy of its order to the county mental health director or his designee.

SEC. 640. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. As used in this article, "mentally retarded persons" means those persons, not psychotic, who are so mentally retarded from infancy or before reaching maturity that they are incapable of managing themselves and their affairs independently, with ordinary prudence, or of being taught to do so, and who require supervision, control, and care, for their own welfare, or for the welfare of others, or for the welfare of the community.

Wherever in this code or in any provision of statute heretofore or

hearafter enacted the terms "feebleminded" and "feeblemindedness" are used, they shall be construed to refer to and mean "mentally retarded" and "mental retardation," respectively, as defined in this section. All persons heretofore committed or admitted as feebleminded to any state hospital for the developmentally disabled, or committed to the State Department of Developmental Services for placement therein, shall be deemed to have been committed or admitted thereto as mentally retarded persons.

SEC. 641. Section 6500.1 of the Welfare and Institutions Code is amended to read:

6500.1. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless he is a danger to himself or others.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event such subsequent petitons are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article the alleged mentally retarded person shall be informed of his right to counsel by the court; and if he does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him. The person shall pay the cost for such legal service if he is able.

SEC. 642. Section 6502 of the Welfare and Institutions Code is amended to read:

6502. A petition for the commitment of a mentally retarded person to the State Department of Developmental Services for placement in a state hospital may be filed in the superior court of the county in which such person resides, by any of the following persons:

(a) The parent, guardian, or other person charged with the support of the mentally retarded person.

(b) Any district attorney or probation officer.

(c) The Youth Authority.

(d) Any person designated for that purpose by the judge of the court.

(e) The Director of Corrections.

The petition shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by the affidavit of the petitioner.

SEC. 643. Section 6509 of the Welfare and Institutions Code is amended to read:

6509. If the court finds that the person is mentally retarded, and that he or his parent or guardian is a resident of this state as determined in accordance with Section 6501, the court may make an

order that the person be committed to the State Department of Developmental Services for hospitalization. The court, however, may commit a mentally retarded person who has been in the state less than one year, or a mentally retarded minor who is not eligible for commitment to the State Department of Developmental Services under Section 6501 for the purpose of transportation of such person to the state of his legal residence pursuant to Section 4119. The State Department of Developmental Services shall receive the person committed to it and shall place the person in a state hospital unless such institutions are already full, or the funds available for their support are exhausted, or, in the opinion of the State Department of Developmental Services, the person is not a suitable subject for admission thereto.

SEC. 644. Section 6551 of the Welfare and Institutions Code is amended to read:

6551. If the court is in doubt as to whether the person is mentally disordered or mentally retarded, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 apply except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. If the professional person in charge of the facility finds the person is, as a result of mental disorder, in need of intensive treatment, he may be certified for not more than 14 days involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 are complied with. Thereupon, the provisions of Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260) or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if the provisions of such articles apply to him.

If the professional person in charge of the facility finds that the person is mentally retarded, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a mentally retarded person to the State Department of Developmental Services for placement in a state hospital. In such case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to such commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with any mental disorder requiring intensive treatment or mental retardation, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to that part.

The jurisdiction of the juvenile court over the minor shall be suspended during such time as the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a mentally retarded person is filed or under remand for 90 days for intensive treatment or commitment ordered by such court.

SEC. 645. Section 6718 of the Welfare and Institutions Code is amended to read:

6718. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount due the state by reason of commitments of the mentally retarded which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 646. Section 6750 of the Welfare and Institutions Code is amended to read:

6750. The superior court judge of each county may grant certificates in accordance with the form prescribed by the State Department of Mental Health, showing that the persons named therein are reputable physicians licensed in this state, and have been in active practice of their profession at least five years. When certified copies of such certificates have been filed with the department, it shall issue to such persons certificates or commissions, and the persons therein named shall be known as "medical examiners." There shall at all times be at least two such medical examiners in each county. The certificate may be revoked by the department for incompetency or neglect, and shall not be again granted without the consent of the department.

SEC. 647. Section 7100 of the Welfare and Institutions Code is amended to read:

7100. The board of supervisors of each county may maintain in the county hospital or in any other hospital situated within or without the county, suitable facilities and hospital service for the detention, supervision, care, and treatment of persons who are mentally disordered, mentally retarded, or who are alleged to be such.

The county may contract with public or private hospitals for such facilities and hospital service when they are not suitably available in

any institution or establishment maintained or operated by the county.

The facilities and services for the mentally disordered and allegedly mentally disordered shall be subject to the approval of the State Department of Mental Health, and the facilities and services for the developmentally disabled and allegedly developmentally disabled shall be subject to the approval of the State Department of Developmental Services. Each person having charge and control of any such hospital shall allow the department whose approval is required to make such investigations thereof as it deems necessary at any time.

Nothing in this chapter means that mentally disordered, or mentally retarded persons may not be detained, supervised, cared for, or treated, subject to the right of inquiry or investigation by the department, in their own homes, or the homes of their relatives or friends, or in a licensed establishment.

SEC. 648. Section 7200 of the Welfare and Institutions Code is amended to read:

7200. There are in the state the following state hospitals for the care and treatment of the mentally disordered:

(a) Metropolitan State Hospital near the City of Norwalk, Los Angeles County.

(b) Atascadero State Hospital near the City of Atascadero, San Luis Obispo County.

SEC. 649. Section 7201 of the Welfare and Institutions Code is amended to read:

7201. All of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by the uniform rules and regulations of the State Department of Mental Health and all of the provisions of Part 2 (commencing with Section 4100) of Division 4 of this code on the administration of state institutions for the mentally disordered shall apply to the conduct and management of the state hospitals for the mentally disordered. All of the institutions under the jurisdiction of the State Department of Developmental Services shall be governed by the uniform rules and regulations of the State Department of Developmental Services and, except as provided in Chapter 4 (commencing with Section 7500) of this division, all of the provisions of Part 2 (commencing with Section 4440) of Division 4.1 of this code on the administration of state institutions for the developmentally disabled shall apply to the conduct and management of the state hospitals for the developmentally disabled.

SEC. 650. Section 7204 of the Welfare and Institutions Code is repealed.

SEC. 651. Section 7205 of the Welfare and Institutions Code is amended to read:

7205. The Director of General Services with the consent of the State Department of Developmental Services is hereby authorized to transfer to the City of Costa Mesa and to convey to said city all of

the state's rights, title and interest, and upon such terms and conditions and with such reservations and exceptions as in the opinion of the Director of General Services may be in the best interest of the state, and subject to such use or uses as may be agreed upon by the city and the State Department of Developmental Services with the approval of the Director of General Services, in all or any part of the real property consisting of approximately five acres lying at the southwest corner of the Fairview State Hospital property in Orange County, being a parcel of land lying within Lot A of the Banning Tract, in the Rancho Santiago de Santa Ana, City of Orange, State of California, as shown on a map of said tract filed in action No. 6385 in the Superior Court of the State of California in and for the City of Los Angeles, being an action for partition entitled Hancock Banning et al. vs. Mary H. Banning, more particularly described as follows:

Beginning at the most southeasterly corner of Parcel G as shown on a record of survey filed in Book 53, pages 34 through 36, of records of Surveys in the office of the County Recorder of Orange County, California; thence along the boundary of said Parcel G northwesterly along a curve concave southwesterly having a radius of 540.00 feet through a central angle of 23 degrees, 01 minutes, 33 seconds, an arc distance of 217.01 feet, thence north 34 degrees, 32 minutes, 30 seconds west, 97.50 feet to a point on a line parallel with and 280.00 feet measured at right angles northerly of the north line of Fairview Farms as shown on said record of Survey; thence departing from the boundary of said Parcel G north 89 degrees, 27 minutes, 30 seconds east along said parallel line 936.97 feet; thence south 0 degrees, 32 minutes, 30 seconds east, 280.00 feet to said north line of Fairview Farms; thence south 89 degrees, 27 minutes, 30 seconds, west, 800.00 feet to the point of beginning.

The conveyance of such property shall be subject to the following conditions:

(a) There shall be excepted and reserved in the state all deposits of minerals, including oil and gas, in the property and to the state, or persons authorized by the state, the right to prospect for, mine, and remove such deposits from the property.

(b) If the city shall cease to use the property for public purposes, all right, title, and interest of the county in and to the property shall cease and the property shall revert and rest in the state.

SEC. 652. Section 7206 of the Welfare and Institutions Code is amended to read:

7206. Notwithstanding the provisions of Section 4104 of this code, the Director of General Services, with the consent of the Director of Mental Health, may grant a right-of-way for road purposes to the County of San Bernardino over and along a portion of the Patton State Hospital property adjacent to Arden Way and Pacific Street upon such terms and conditions and with such reservations and exceptions as in the opinion of the Director of General Services will be for the best interests of the state.

SEC. 653. Section 7207 of the Welfare and Institutions Code is amended to read:

7207. The Director of General Services, with the consent of the State Department of Mental Health, may grant to the Regents of the University of California, upon such terms, conditions, and with such reservations and exceptions as in the opinion of the Director of General Services may be for the best interest of the state, the necessary easements and rights-of-way for a utilities relocation and campus access road on the Langley Porter Neuropsychiatric Institute property. The right-of-way shall be across, along and upon the following described property:

A strip of land approximately 40' in width extending from the southerly line of Parnassus Avenue beginning at a point on the southerly boundary of Parnassus Avenue 331' from the westerly boundary of said parcel of land described by deed dated October 1, 1940, and extending in a southerly direction to the south boundary of Langley Porter property.

SEC. 654. Section 7226 of the Welfare and Institutions Code is amended to read:

7226. The State Department of Mental Health may admit to any state hospital for the mentally disordered, if there is room therein, any mentally disordered soldier or sailor in the service of the United States on such terms as are agreed upon between the department and the properly authorized agents, officers, or representatives of the United States government.

SEC. 655. Section 7228 of the Welfare and Institutions Code is amended to read:

7228. The State Department of Mental Health shall evaluate each patient committed pursuant to Section 1026 or 1370 of the Penal Code, or Section 6316 of this code in order to determine whether the patients propensity for dangerous behavior or escape makes it necessary to treat the patient in a secure setting. The department shall treat all Penal Code commitments and mentally disordered sex offenders who do not require a secure treatment setting as near to the patient's community as possible.

SEC. 656. Section 7250 of the Welfare and Institutions Code is amended to read:

7250. Any person who has been committed is entitled to a writ of habeas corpus, upon a proper application made by the State Department of Mental Health or the State Department of Developmental Services, by such person, or by a relative or friend in his behalf to the judge of the superior court of the county in which the hospital is located. All documents requested by the court in the county of confinement shall be forwarded from the county of commitment to such court. Upon the return of the writ, the truth of the allegations under which he was committed shall be inquired into and determined. The medical history of the person as it appears in the clinical records shall be given in evidence, and the superintendent in charge of the state hospital wherein the person is

held in custody and any other person who has knowledge of the facts shall be sworn and shall testify relative to the mental condition of the person.

SEC. 657. Section 7252 of the Welfare and Institutions Code is amended to read:

7252. Any patient in a state hospital, upon the consent of the superintendent and medical director of such hospital, may voluntarily donate blood to any nonprofit blood bank duly licensed by the State Department of Health Services.

SEC. 658. Section 7254 of the Welfare and Institutions Code is amended to read:

7254. The provisions of this section apply to any person who has been lawfully committed or admitted to any state hospital for the mentally disordered or mentally retarded and who is afflicted with, or suffers from, any of the following conditions:

(a) Mental disease which may have been inherited and is likely to be transmitted to descendants.

(b) Mental retardation, in any of its various grades.

(c) Marked departures from normal mentality.

The State Department of Mental Health with respect to a patient or resident in a state hospital or home under its jurisdiction, and the State Department of Developmental Services with respect to a patient or resident in a state hospital or home under its jurisdiction, upon compliance with the provisions of this section, may cause any such person to be sterilized by the operation of vasectomy upon the patient if a male and of salpingectomy if a female or any other operation or treatment that will permanently sterilize but not unsex the patient. When the superintendent of the state hospital or state home is of the opinion that a patient who is afflicted with or suffering from any of the conditions specified in this section should be sterilized, he shall certify such opinion to the director of the department having jurisdiction over the hospital or home and shall at the same time give written notice of such certification to the patient and to his known parents, spouse, adult children, or guardian, if any, by registered mail to their last known address. If the patient has no known relatives or guardian, such notice shall be given to the person who petitioned for the patient's commitment. Such notice shall further state that written objection or written consent to the proposed sterilization, should be filed with the director of the department having jurisdiction over the hospital or home at his office in Sacramento within 30 days by the patient, spouse, next of kin or guardian.

When a written consent is filed, or if no objection is filed within the 30 days, the director of the department having jurisdiction over the hospital or home, if satisfied that the sterilization will not unduly endanger the patient's health and that it is a proper case for sterilization, may authorize the superintendent to proceed with the sterilization of the patient. The director may cause such examination of the patient and other inquiry to be made as he deems advisable

before issuing the authorization to the superintendent.

If a written objection is filed within the 30 days by the patient, his spouse, next of kin, or guardian, and in those cases where the patient has no known relatives or guardian, the proposed sterilization shall not be authorized or performed until the director of the department having jurisdiction over the hospital or home has determined the matter. He shall make full inquiry into the case, and may hold a hearing at the institution at which hearing the patient shall be present, and the objecting party and others interested on behalf of the patient may be heard. If the decision of the director is that the patient shall not be sterilized, he shall so order and notify the superintendent, the patient and the objecting party. If the decision of the director is that the patient should be sterilized, he shall send notice of such decision to the patient, his known parents, spouse, adult children, and guardian, if any, and the objecting party, by registered mail to their last known address. Such notice shall further state that any such party has the right within 30 days to petition the superior court of the county in which the institution is situated or of the county of the patient's residence for a review of the decision.

If such petition is filed in court within 30 days, and a true copy thereof is served upon the director of the department having jurisdiction over the hospital or home, the patient shall not be sterilized unless and until the court, after hearing, issues an order authorizing the sterilization of the patient in accordance with the provisions of this section. If such petition is not filed in court within 30 days, the director may authorize the superintendent to proceed with such sterilization. The sterilization of a patient in accordance with the provisions of this section, whether performed with or without the consent of the patient, shall be lawful and shall not render the department, its officers or employees, or any persons participating in the operation liable either civilly or criminally.

SEC. 659. Section 7276 of the Welfare and Institutions Code is amended to read:

7276. The charge for the care and treatment of all mentally disordered persons and alcoholics at state hospitals for the mentally disordered for whom there is liability to pay therefor shall be determined pursuant to Section 4025. The Director of Mental Health may reduce, cancel or remit the amount to be paid by the estate or the relatives, as the case may be, liable for the care and treatment of any mentally disordered person or alcoholic who is a patient at a state hospital for the mentally disordered, on satisfactory proof that the estate or relatives, as the case may be, are unable to pay the cost of such care and treatment or that the amount is uncollectible. In any case where there has been a payment under this section, and such payment or any part thereof is refunded because of the death, leave of absence, or discharge of any patient of such hospital, such amount shall be paid by the hospital or the State Department of Mental Health to the person who made the payment upon demand, and in the statement to the Controller the amounts refunded shall be

itemized and the aggregate deducted from the amount to be paid into the State Treasury, as provided by law. If any person dies at any time while his estate is liable for his care and treatment at a state hospital, the claim for the amount due may be presented to the executor or administrator of his estate, and paid as a preferred claim, with the same rank in order of preference, as claims for expenses of last illness.

SEC. 660. Section 7277 of the Welfare and Institutions Code is amended to read:

7277. The State Department of Mental Health shall collect all the costs and charges mentioned in Section 7275, and shall determine, pursuant to Section 7275, and collect the charges for care and treatment rendered persons in any community mental hygiene clinics maintained by the department and may take such action as is necessary to effect their collection within or without the state. The Director of Mental Health may, however, at his discretion, refuse to accept payment of charges for the care and treatment in a state hospital of any mentally disordered person or inebriate who is eligible for deportation by the federal immigration authorities.

SEC. 661. Section 7281 of the Welfare and Institutions Code is amended to read:

7281. There is at each institution under the jurisdiction of the State Department of Mental Health and at each institution under the jurisdiction of the State Department of Developmental Services, a fund known as the patients' personal deposit fund. Any funds coming into the possession of the superintendent, belonging to any patient in that institution, shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian of the estate is appointed for the patient then he shall have the right to demand and receive such funds. Whenever the sum belonging to any one patient, deposited in the patients' personal deposit fund, exceeds the sum of five hundred dollars ($500), the excess may be applied to the payment of the care, support, maintenance and medical attention of the patient. After the death of the patient any sum remaining in his personal deposit account in excess of burial costs may be applied for payment of care, support, maintenance and medical attention. Any of the funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals for the patient or may be applied in an amount not exceeding five hundred dollars ($500) to the payment of his burial expenses.

SEC. 662. Section 7282 of the Welfare and Institutions Code is amended to read:

7282. The State Department of Mental Health with respect to a state hospital under its jurisdiction, or the State Department of Developmental Services with respect to a state hospital under its jurisdiction, may in its own name bring an action to enforce payment for the cost and charges of transportation of a person to a state hospital against any person, guardian or relative liable for such

transportation. The department also may in its own name bring an action to recover for the use and benefit of any state hospital or for the state the amount due for the care, support, maintenance, and expenses of any patient therein, against any county, or officer thereof, or against any person, guardian, or relative, liable for such care, support, maintenance, or expenses.

SEC. 663. Section 7283 of the Welfare and Institutions Code is amended to read:

7283. All moneys collected by the State Department of Mental Health and the State Department of Developmental Services for the cost and charges of transportation of persons to state hospitals shall be remitted by the department to the State Treasury for credit to, and shall become a part of, the current appropriation from the General Fund of the state for the transportation of the mentally disordered, correctional school, or other state hospital patients and shall be available for expenditure for such purposes. In lieu of exact calculations of moneys collected for transportation charges the department may determine the amount of such collections by the use of such estimates or formula as may be approved by the Department of Finance.

SEC. 664. Section 7284 of the Welfare and Institutions Code is amended to read:

7284. If any incompetent person, who has no guardian and who has been admitted or committed to the State Department of Mental Health for placement in any state hospital for the mentally disordered or the mentally retarded is the owner of any property, the State Department of Mental Health, acting through its designated officer, may apply to a court of competent jurisdiction for its appointment as guardian of the estate of such incompetent person.

For the purposes of this section, the State Department of Mental Health is hereby made a corporation and may act as executor, administrator, guardian of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, and may transact business in such capacity in like manner as an individual, and for this purpose may sue and be sued in any of the courts of this state.

If a person admitted or committed to the State Department of Mental Health dies, leaving any estate, and having no relatives at the time residing within this state, the State Department of Mental Health may apply for letters of administration of his estate, and, in the discretion of the court, letters of administration may be issued to the department. When the State Department of Mental Health is appointed as guardian or administrator, the department shall be appointed as guardian or administrator without bond. The officer designated by the department shall be required to give a surety bond in such amount as may be deemed necessary from time to time by the director, but in no event shall the initial bond be less than ten thousand dollars ($10,000), which bond shall be for the joint benefit of the several estates and the State of California. The State

Department of Mental Health shall receive such reasonable fees for its services as such guardian or administrator as the court allows. The fees paid to the State Department of Mental Health for its services as guardian or administrator of the various estates may be used as a trust account from which may be drawn expenses for filing fees, bond premiums, court costs, and other expenses required in the administration of the various estates. Whenever the balance remaining in such trust fund account shall exceed a sum deemed necessary by the department for the payment of such expenses, such excess shall be paid quarterly by the department into the State Treasury to the credit of the General Fund.

SEC. 665. Section 7285 of the Welfare and Institutions Code is amended to read:

7285. The State Department of Mental Health may invest funds held as executor, administrator, guardian of estates, or trustee, in bonds or obligations issued or guaranteed by the United States or the State of California. Such investments may be made and such bonds or obligations may be sold or exchanged for similar bonds or obligations without notice or court authorization.

SEC. 666. Section 7286 of the Welfare and Institutions Code is amended to read:

7286. The State Department of Mental Health may establish one or more common trusts for investment of funds held as executor, administrator, guardian of estates, or trustee and may designate from time to time the amount of participation of each estate in such trusts. The funds in such trusts may be invested only in bonds or obligations issued or guaranteed by the United States or the State of California.

The income and profits of each trust shall be the property of the estates participating and shall be distributed, when received, in proportion to the amount of participation of each estate in such trust. The losses of each trust shall be the losses of the estates participating and shall be apportioned, as the same occur, upon the same basis as income and profits.

SEC. 667. Section 7287 of the Welfare and Institutions Code is amended to read:

7287. Upon the death of an incompetent person over whom the State Department of Mental Health has obtained jurisdiction pursuant to Section 7284, the department may make proper disposition of the remains, and pay for the disposition of the remains together with any indebtedness existing at the time of the death of such person from the assets of the guardianship estate, and thereupon it shall file its final account with the court or otherwise close its administration of the estate of such person.

SEC. 668. Section 7288 of the Welfare and Institutions Code is amended to read:

7288. Whenever it appears that a person who has been admitted to a state institution and remains under the jurisdiction of the State Department of Mental Health does not have a guardian and owns personal property which requires safekeeping for the benefit of the

patient, the State Department of Mental Health may remove or cause to be removed such personal property from wherever located to a place of safekeeping.

Whenever it appears that such patient does not own property of a value which would warrant guardianship proceedings, the expenses of such removal and safekeeping shall be paid from funds appropriated for the support of the institution in which the patient is receiving care and treatment; provided, however, that if the sum on deposit to the credit of such patient in the patients' personal deposit fund exceeds the sum of three hundred dollars ($300), the excess may be applied to the payment of such expenses of removal and safekeeping.

When it is determined by the superintendent at any time after the removal for safekeeping of such personal property, that the patient is incurable or is likely to remain in a state institution indefinitely, then any of those articles of personal property which cannot be used by the patient at the institution may be sold at public auction and the proceeds therefrom shall first be applied in reimbursement of the expenses so incurred and the balance shall be deposited to the patient's credit in the patients' personal deposit fund. All moneys so received as reimbursement shall be deposited in the State Treasury in augmentation of the appropriation from which the expenses were paid.

SEC. 669. Section 7289 of the Welfare and Institutions Code is amended to read:

7289. When a person who is a patient of a state hospital in the State Department of Mental Health or the State Department of Developmental Services has no guardian and has money due or owing to him, the total amount of which does not exceed the sum of three thousand dollars ($3,000), the superintendent of the institution of which the person is a patient may collect any money so due or owing upon furnishing to the person, representative, officer, body or corporation in possession of or owing any such sums, an affidavit executed by the superintendent or acting superintendent. The affidavit shall contain the name of the institution of which the person is a patient, and the statement that the total amount of such sums known to be due to the person does not exceed the sum of three thousand dollars ($3,000). Payments from retirement systems and annuity plans which are due or owing to such patients may also be collected by the superintendent of the institution of which the person is a patient, upon the furnishing of an affidavit executed by the superintendent or acting superintendent, containing the name of the institution of which the person is a patient and the statement that such person is entitled to receive such payments. Such sums shall be delivered to the superintendent and shall be deposited by him in the patients' personal deposit fund as provided in Section 7281 of this code.

The receipt of such superintendent shall constitute sufficient acquittance for any payment of money made pursuant to the

provisions of this section and shall fully discharge such person, representative, officer, body or corporation from any further liability with reference to the amount of money so paid.

The superintendent of each institution shall render such reports and accounts annually or more often as may be required by the department having jurisdiction over the hospital or the Department of Finance of all moneys of patients deposited in the patients' personal deposit accounts of the institution.

SEC. 670. Section 7290 of the Welfare and Institutions Code is amended to read:

7290. The State Department of Mental Health or the State Department of Developmental Services may enter into a special agreement, secured by a properly executed bond, with the relatives, guardian, or friend of any patient therein, for his care, support, maintenance, or other expenses at the institution. Such agreement and bond shall be to the people of the State of California and action to enforce the same may be brought thereon by the department. All charges due under the provisions of this section, including the monthly rate for the patient's care and treatment as established by or pursuant to law, shall be collected monthly. No patient, however, shall be permitted to occupy more than one room in any state institution.

SEC. 671. Section 7292 of the Welfare and Institutions Code is amended to read:

7292. The cost of such care shall be determined and fixed from time to time by the Director of Developmental Services, but in no case shall it exceed the rate of forty dollars ($40) per month.

SEC. 672. Section 7293 of the Welfare and Institutions Code is amended to read:

7293. The State Department of Developmental Services shall present to the county, not more frequently than monthly, a claim for the amount due the state under Section 7291 which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

SEC. 673. Section 7294 of the Welfare and Institutions Code is amended to read:

7294. Any person who has been committed as a defective or psychopathic delinquent may be paroled or granted a leave of absence by the medical superintendent of the institution wherein the person is confined whenever the medical superintendent is of the opinion that the person has improved to such an extent that he is no longer a menace to the health and safety of others or that the person will receive benefit from such parole or leave of absence, and after the medical superintendent and the Director of Mental Health have certified such opinion to the committing court.

If within 30 days after the receipt of such certification the committing court orders the return of such person, the person shall be returned forthwith to await further action of the court. If within

30 days after the receipt of such certification the committing court does not order the return of the person to await the further action of the court, the medical superintendent may thereafter parole the person under such terms and conditions as may be specified by the superintendent. Any such paroled inmate may at any time during the parole period be recalled to the institution. The period of parole shall in no case be less than five years, and shall be on the same general rules and conditions as parole of the mentally disordered.

When any person has been paroled for five consecutive years, if in the opinion of the medical superintendent and the Director of Mental Health the person is no longer a menace to the health, person, or property of himself or of any other person, the medical superintendent, subject to the approval of the Director of Mental Health, may discharge the person. The committing court shall be furnished with a certified copy of such discharge and shall thereupon make such disposition of the court case as it deems necessary and proper.

When, in the opinion of the medical superintendent, a person heretofore committed as a defective or psychopathic delinquent will not benefit by further care and treatment under any facilities of the department and should be returned to the jurisdiction of the court, the superintendent of the institution and the Director of Mental Health shall certify such opinion to the committing court including therein a report, diagnosis and recommendation concerning the person's future care, supervision or treatment. Upon receipt of such certification, the committing court shall forthwith order the return of the person to the court. The person shall be entitled to a court hearing and to present witnesses in his own behalf, to be represented by counsel and to cross-examine any witness who testifies against him. After considering all the evidence before it, the court may make such further order or commitment with reference to such person as may be authorized by law.

SEC. 674. Section 7300 of the Welfare and Institutions Code is amended to read:

7300. It shall be the policy of the department to make available to all persons admitted to a state hospital prior to July 1, 1969, and to all persons judicially committed or remanded to its jurisdiction all of the facilities under the control of the department. Whenever, in the opinion of the Director of Mental Health, it appears that a person admitted prior to July 1, 1969, or that a person judicially committed or remanded to the State Department of Mental Health for placement in an institution would be benefited by a transfer from that institution to another institution in the department, the director may cause the transfer of the patient from that institution to another institution under the jurisdiction of the department. Preference shall be given in any such transfer to an institution in an adjoining rather than a remote district.

However, before any inmate of a correctional school may be transferred to a state hospital for the mentally disordered he shall

first be returned to a court of competent jurisdiction, and, if subject to commitment, after hearing, may be committed to a state hospital for the mentally disordered in accordance with law.

The expense of such transfers is chargeable to the state, and the bills for the same, when approved by the Director of Mental Health, shall be paid by the Treasurer on the warrant of the Controller, out of any moneys provided for the care or support of the patients or out of the moneys provided for the support of the department, in the discretion of the department.

SEC. 675. Section 7301 of the Welfare and Institutions Code is amended to read:

7301. Whenever, in the opinion of the Director of Mental Health and with the approval of the Director of Corrections, any person who has been committed to a state hospital pursuant to provisions of the Penal Code or who has been placed in a state hospital temporarily for observation pursuant to, or who has been committed to a state hospital for an indeterminate period pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of this code needs care and treatment under conditions of custodial security which can be better provided within the Department of Corrections, such person may be transferred for such purposes from an institution under the jurisdiction of the State Department of Mental Health to an institution under the jurisdiction of the Department of Corrections.

Persons so transferred shall not be subject to the provisions of Section 4500, 4501, 4501.5, 4502, 4530, or 4531 of the Penal Code. However, they shall be subject to the general rules of the Director of Corrections and of the facility where they are confined and any correctional employee dealing with such persons during the course of an escape or attempted escape, a fight or a riot, shall have the same rights, privileges and immunities as if the person transferred had been committed to the Director of Corrections.

Whenever a person is transferred to an institution under the jurisdiction of the Department of Corrections pursuant to this section, any report, opinion, or certificate required or authorized to be filed with the court which committed such person to a state hospital, or ordered such person placed therein, shall be prepared and filed with the court by the head of the institution in which the person is actually confined or by the designee of such head.

SEC. 676. Section 7302 of the Welfare and Institutions Code is amended to read:

7302. Patients admitted to a state hospital prior to July 1, 1969, and all patients judicially committed or remanded, may be transferred to a like institution at the request of relatives or friends, if there is room in the like institution to which transfer is sought and if the department or departments having jurisdiction over such institutions and the medical directors of the institutions from which and to which the transfer is to be made consent thereto. The expense of such transfer shall be paid by such relatives or friends.

SEC. 677. Section 7303 of the Welfare and Institutions Code is amended to read:

7303. Whenever a person, committed to the care of the State Department of Mental Health or the State Department of Developmental Services under one of the commitment laws which provides for reimbursement for care and treatment to the state by the county of commitment of such person, is transferred under Section 7300 to an institution under the jurisdiction of the department where the state rather than the county is liable for the support and care of patients, the county of commitment may have the original commitment vacated and a new commitment issued, designating the institution to which the person has been transferred, in order to absolve the county from liability under the original commitment.

SEC. 678. Section 7304 of the Welfare and Institutions Code is amended to read:

7304. Whenever a person, committed to the State Department of Mental Health or the State Department of Developmental Services under one of the commitment laws providing for no reimbursement for care and treatment to the state by the county of commitment, is transferred under Section 6700 to an institution under the jurisdiction of the department where the county is required to reimburse the state for such care and treatment, the State Department of Mental Health or the State Department of Developmental Services may have the original commitment vacated and a new commitment issued, designating the institution to which the person has been transferred, in order to make the county liable for the care and treatment of the committed person to the extent provided by Sections 7511 and 7512 of the Welfare and Institutions Code.

SEC. 679. Section 7305 of the Welfare and Institutions Code is amended to read:

7305. A mentally retarded patient in a state hospital shall not be transferred by the State Department of Developmental Services to a different state hospital without the consent of his parent, or guardian, if any.

SEC. 680. Section 7325 of the Welfare and Institutions Code is amended to read:

7325. When any patient committed by a court to a state hospital or other institution on or before June 30, 1969, or when any patient who is judicially committed on or after July 1, 1969, or when any patient who is involuntarily detained pursuant to Part 1 (commencing with Section 5000) of Division 5 escapes from any state hospital, any hospital or facility operated by or under the Veterans' Administration of the United States government, or any facility designated by a county pursuant to such Part 1, or any facility into which the patient has been placed by his conservator appointed pursuant to Chapter 3 (commencing with Section 5350), Part 1, Division 5, of this code, or when a judicially committed patient's

return from leave of absence has been authorized or ordered by the State Department of Mental Health or the facility of the Veterans' Administration, any peace officer, upon written request of the state hospital, veterans' facility, or the facility designated by a county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350), Part 1, Division 5, of this code, shall without the necessity of a warrant or court order, or any officer or employee of the State Department of Mental Health designated to perform such duties may, apprehend, take into custody and deliver him to the state hospital or to a facility of the Veterans' Administration, or the facility designated by a county, or to any person or place authorized by the State Department of Mental Health, or by the Veterans' Administration, or the local director of the county mental health program of the county in which is located the facility designated by the county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350), Part 1, Division 5, of this code, as the case may be, to receive him. Every officer or employee of the State Department of Mental Health designated to apprehend or return such patients shall have the powers and privileges of peace officers so far as necessary to enforce the provisions of this section.

As used in this section "any peace officer" means the persons specified in Section 830.1 of the Penal Code.

The written notification of the escape required by this section shall include the name and physical description of the patient, his home address, the degree of dangerousness of the patient and any additional information which is necessary to apprehend and return the patient. Any officer or employee of a state hospital, hospital or facility operated by or under the Veterans' Administration, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5 shall provide any peace officer with any information concerning any patient who escapes from such hospital or facility in order to assist in the apprehension and return of the patient.

The person in charge of such hospital or facility, or his designee, may provide telephonic notification of the escape to the law enforcement agency of the county or city in which the hospital or facility is located. If such notification is given, the time and date of notification, the person notified, and the person making the notification shall be noted in the written notification required by this section.

SEC. 681. Section 7328 of the Welfare and Institutions Code is amended to read:

7328. Whenever a person, committed to an institution subject to the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services under one of the commitment laws which provides for reimburement for care and treatment to the state by the county of commitment of such person, is accused of committing a crime while confined in such institution

and is committed by the court in which the crime is charged to another institution under the jurisdiction of the State Department of Mental Health or the Department of Corrections, the state rather than the county of commitment shall bear the subsequent cost of supporting and caring for such person.

SEC. 682. Section 7329 of the Welfare and Institutions Code is amended to read:

7329. When any patient, who is subject to judicial commitment, has escaped from any public mental hospital in a state of the United States other than California and is present in this state, any peace officer, health officer, county physician, or assistant county physician may take such person into custody within five years after the escape. Such person may be admitted and detained in the quarters provided in any county hospital or state hospital upon application of the peace officer, health officer, county physician, or assistant county physician. The application shall be in writing and shall state the identity of the person, the name and place of the institution from which he escaped and the approximate date of the escape, and the fact that the person has been apprehended pursuant to this section.

As soon as possible after the person is apprehended, the district attorney of the county in which the person is present shall file a petition in the superior court alleging the facts of the escape, and requesting an immediate hearing on the question of whether the person has escaped from a public mental hospital in another state within five years prior to his apprehension. The hearing shall be held within three days after the day on which the person was taken into custody. If the court finds that the person has not escaped from such a hospital within five years prior to his apprehension, he shall be released immediately.

If the court finds that the person did escape from a public mental hospital in another state within five years prior to his apprehension, the superintendent or physician in charge of the quarters provided in such county hospital or state hospital may care for and treat the person, and the district attorney of the county in which such person is present immediately shall present to a judge of the superior court a petition asking that the person be judicially committed to a state hospital in this state. The hearing on the petition shall be held within seven days after the court's determination in the original hearing that the person did escape from a public mental hospital in another state within five years prior to his apprehension. Proceedings shall thereafter be conducted as on a petition for judicial commitment of the particular type of person subject to judicial commitment. If the court finds that the person is subject to judicial commitment it shall order him judicially committed to a state hospital in this state; otherwise, it shall order him to be released. It shall be the duty of the superintendent of the state hospital to accept custody of such person, if he has been determined to be subject to judicial commitment. The State Department of Mental Health will promptly cause such person to be returned to the institution from which he escaped if the

authorities in charge of such institution agree to accept him. If such authorities refuse to accept such person, the superintendent of the state hospital in which the person is confined shall continue to care for and treat the person in the same manner as any other person judicially committed to the hospital as mentally disordered.

SEC. 683. Section 7352 of the Welfare and Institutions Code is amended to read:

7352. The medical director of a state hospital for the mentally disordered may grant a leave of absence to any judicially committed patient, except as provided in Section 7350, under general conditions prescribed by the State Department of Mental Health.

The State Department of Mental Health may continue to render services to patients placed on leave of absence prior to July 1, 1969, to the extent such services are authorized by law in effect immediately preceding July 1, 1969.

SEC. 684. Section 7352.5 is added to the Welfare and Institutions Code, to read:

7352.5. The medical director of a state hospital for the developmentally disabled may grant a leave of absence to any developmentally disabled patient or judicially committed patient, except as provided in Section 7350, under general conditions prescribed by the State Department of Developmental Services.

The State Department of Developmental Services may continue to render services to patients placed on leave of absence prior to July 1, 1969, to the extent such services are authorized by law in effect immediately preceding July 1, 1969.

SEC. 685. Section 7354 of the Welfare and Institutions Code is amended to read:

7354. Any mentally disordered person may be granted care in a licensed institution or other suitable licensed or certified facility. The State Department of Mental Health may pay for such care at a rate not exceeding the average cost of care of patients in the state hospitals as determined by the Director of Mental Health. Such payments shall be made from funds available to the State Department of Mental Health for that purpose.

The State Department of Mental Health may make payments for services for mentally disordered patients in private facilities released or discharged from state hospitals on the basis of reimbursement for reasonable cost, using the same standards and rates consistent with those established by the State Department of Health Services for similar types of care. Such payments shall be made within the limitation of funds appropriated to the State Department of Mental Health for that purpose.

No payments for care or services of a mentally disordered patient shall be made by the State Department of Mental Health pursuant to this section unless such care or services are requested by the local director of the mental health services of the county of the patient's residence, unless provision for such care or services is made in the county Short-Doyle plan of the county under which the county shall

reimburse the department for 10 percent of the amount expended by the department, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10-percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

SEC. 686. Section 7354.5 is added to the Welfare and Institutions Code, to read:

7354.5. Any developmentally disabled person may be granted care in a licensed institution or other suitably licensed or certified facility. The State Department of Developmental Services may pay for such care at a rate not exceeding the average cost of care of patients in the state hospitals as determined by the Director of Developmental Services. Such payments shall be made from funds available to the State Department of Developmental Services for that purpose.

The State Department of Developmental Services may make payments for services for developmentally disabled and mentally disordered patients in private facilities released or discharged from state hospitals on the basis of reimbursement for reasonable cost, using the same standards and rates consistent with those established by the State Department of Developmental Services for similar types of care. Such payments shall be made within the limitation of funds appropriated to the State Department of Developmental Services for that purpose.

No payments for care or services of a mentally disordered patient shall be made by the State Department of Mental Health pursuant to this section unless such care or services are requested by the local director of the mental health services of the county of the patient's residence, unless provision for such care or services is made in the county Short-Doyle plan of the county under which the county shall reimburse the department for 10 percent of the amount expended by the department, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10 percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5. No payments for care or services of a developmentally disabled person shall be made by the State Department of Developmental Services pursuant to this section, unless requested by the regional center having jurisdiction over the patient and provision for such care or services is made in the areawide mental retardation plan.

SEC. 687. Section 7355 of the Welfare and Institutions Code is amended to read:

7355. No patient shall be discharged or granted a leave of absence

from a state hospital without suitable clothing adapted to the season in which he is discharged; and, if it cannot otherwise be obtained, the superintendent, under general conditions prescribed by the department having jurisdiction of the hospital, shall furnish such clothing and money, not exceeding fifty dollars ($50) to defray the necessary expenses of such patient who is going on leave of absence or is to be discharged until he can reach his relatives or friends, or find employment to earn a subsistence.

The superintendent may, under general conditions prescribed by the department having jurisdiction of the hospital, furnish to patients while on leave of absence such incidental moneys, supplies or services as are necessary and advisable in the care, supervision and rehabilitation of such patients on leave of absence. Payments therefor shall be made from funds available for support of patients in the state hospital or hospitals from which such patients have been granted a leave of absence.

SEC. 688. Section 7356 of the Welfare and Institutions Code is amended to read:

7356. The charges for the care and keeping of persons on leave of absence from a state hospital where the State Department of Mental Health, the State Department of Developmental Services, or the State Department of Social Services pays for such care shall be a liability of such person, his estate, and relatives, to the same extent that such liability exists for patients in state hospitals.

The State Department of Mental Health shall collect or adjust such charges in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of this division.

SEC. 689. Section 7357 of the Welfare and Institutions Code is amended to read:

7357. The superintendent of a state hospital, on filing his written certificate with the Director of Mental Health, may discharge any patient who, in his judgment, has recovered or was not, at time of admission, mentally disordered.

SEC. 690. Section 7359 of the Welfare and Institutions Code is amended to read:

7359. The superintendent of a state hospital, on filing his written certificate with the Director of Mental Health, may discharge as improved, or may discharge as unimproved, as the case may be, any judicially committed patient who is not recovered, but whose discharge, in the judgment of the superintendent, will not be detrimental to the public welfare, or injurious to the patient.

SEC. 691. Section 7362 of the Welfare and Institutions Code is amended to read:

7362. The medical superintendent of a state hospital, on filing his written certificate with the Director of Mental Health, may on his own motion, and shall on the order of the State Department of Mental Health, discharge any patient who comes within any of the following descriptions:

(a) Who is not a proper case for treatment therein.

(b) Who is mentally deficient or is affected with a chronic harmless mental disorder.

Such person, when discharged, shall be returned to the county of his residence at the expense of such county, and delivered to the sheriff or other appropriate county official to be designated by the board of supervisors, for delivery to the official or agency in that county charged with the responsibility for such person. Should such person be a poor and indigent person, he shall be cared for by such county as are other indigent poor.

No person who has been discharged from any state hospital under the provisions of subdivision (b) above shall be again committed to any state hospital for the mentally disordered unless he is subject to judicial commitment.

SEC. 692. The heading of Chapter 4 (commencing with Section 7500) of Division 7 of the Welfare and Institutions Code is amended to read:

CHAPTER 4. STATE HOSPITALS FOR THE DEVELOPMENTALLY DISABLED

SEC. 693. Section 7500 of the Welfare and Institutions Code is amended to read:

7500. There are established in the state the following state hospitals for the care and treatment of the developmentally disabled:

(a) Sonoma State Hospital, in Sonoma County.
(b) Pacific State Hospital, in Los Angeles County.
(c) Porterville State Hospital, in Tulare County.
(d) Fairview State Hospital, in Orange County.
(e) Agnews State Hospital, in Santa Clara County.
(f) Stockton State Hospital, in San Joaquin County.
(g) Camarillo State Hospital, in Ventura County.
(h) Napa State Hospital, in Napa County.
(i) Patton State Hospital, in San Bernardino County.

Wherever in this code or in any provision of statute heretofore or hereafter enacted the term "home for the feebleminded," "home for the mentally deficient," "state hospital for the mentally deficient," or "state hospital for the mentally retarded" is used, it shall be construed to refer to and mean "state hospital for the developmentally disabled."

SEC. 694. Section 7502 of the Welfare and Institutions Code is amended to read:

7502. The state institution, the site for which was provided for by an appropriation made by Chapter 28 of the 55th (Fourth Extraordinary Session) Session of the Legislature, shall be known as Porterville State Hospital and shall be used for epileptics who are developmentally disabled and for other developmentally disabled patients.

SEC. 695. Section 7504 of the Welfare and Institutions Code is amended to read:

7504. Except as otherwise provided in this chapter the provisions on state institutions in Chapter 2 (commencing with Section 4100) of Part 1 of Division 5 of this code shall apply to the state hospitals for the developmentally disabled.

SEC. 696. Section 7506 of the Welfare and Institutions Code is amended to read:

7506. The primary purpose of each hospital for the developmentally disabled shall be the care, treatment and habilitation of those patients found suitable and duly admitted.

SEC. 697. Section 7507 of the Welfare and Institutions Code is amended to read:

7507. Subject to the provisions of Section 6509, each state hospital for the developmentally disabled shall admit persons duly committed or transferred thereto in accordance with law.

SEC. 698. Section 7509 of the Welfare and Institutions Code is amended to read:

7509. The State Department of Mental Health and the State Department of Developmental Services shall prescribe and publish instructions and forms, in relation to the commitment and admission of patients, and may include in them such interrogatories as it deems necessary or useful. Such instructions and forms shall be furnished to anyone applying therefor, and shall also be sent in sufficient numbers to the county clerks of the several counties of the state.

SEC. 699. Section 7513 of the Welfare and Institutions Code is amended to read:

7513. Each developmentally disabled person and his estate shall pay the department for the cost of such person's care and treatment as defined in Section 4431 while in the state hospital and while on leave of absence at state expense, less the sums payable therefor by the county. The provisions of Sections 7276 and 7277 shall govern the assessment, cancellation, collection, and remission of charges for such care and treatment.

This section shall not be construed to impose any liability on the parents of developmentally disabled persons.

SEC. 700. Section 7514 of the Welfare and Institutions Code is amended to read:

7514. The State Department of Developmental Services may transfer any patient of a state hospital for the developmentally disabled to another state hospital for the developmentally disabled, at any time and from time to time, upon the application of the parent, guardian, or other person charged with the support of such patient, if the expenses of the transfer are paid by the applicant. The liability of any estate, person, or county for the care, support and maintenance of such patient in the institution to which he is transferred shall be the same as if he had originally been committed to such institution.

SEC. 701. Section 7515 of the Welfare and Institutions Code is amended to read:

7515. The medical director may, with the approval of the

department having jurisdiction, cause the preemptory discharge of any person who has been a patient for the period of one month.

SEC. 702. Section 7518 of the Welfare and Institutions Code is amended to read:

7518. In accordance with this section, the medical director of a state hospital with programs for developmentally disabled patients, as defined in Section 4512, may give consent to medical, dental, and surgical treatment of a minor developmentally disabled patient of the hospital and provide for such treatment to be given to the patient.

If the patient's parent, guardian, or conservator legally authorized to consent to such treatment, does not respond within a reasonable time to the request of the medical director for the granting or denying of consent for such treatment, the medical director may consent, on behalf of the patient, to such treatment and provide for such treatment to be given the patient.

If the patient has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the patient, the medical director may consent to such treatment on behalf of the patient and provide for such treatment to be given to the patient. The medical director may immediately thereupon also request the appropriate regional center for the developmentally disabled to initiate or cause to be initiated proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical treatment.

If the patient is an adult and has neither a guardian or conservator, consent to treatment may be given by someone other than the patient on the patient's behalf only if the patient is mentally incapable of giving his own consent.

SEC. 703. Section 8007 of the Welfare and Institutions Code is amended to read:

8007. When the public guardian makes application under Section 8006 for guardianship or conservatorship of the person and estate or person or estate of any person who is under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services such application may be granted, if sufficient under Section 8006, with the written consent of the department having jurisdiction of the person.

SEC. 704. Section 8050 of the Welfare and Institutions Code is amended to read:

8050. The State Department of Mental Health, acting through the superintendent of the Langley Porter Clinic, shall plan, conduct, and cause to be conducted scientific research into the causes and cures of sexual deviation, including deviations conducive to sex crimes against children, and the causes and cures of homosexuality, and into methods of identifying potential sex offenders

SEC. 705. Section 8051 of the Welfare and Institutions Code is amended to read:

8051. Upon the recommendation of the superintendent of the

Langley Porter Clinic, the State Department of Mental Health may enter into contracts with the Regents of the University of California for the conduct, by either for the other, of all or any portion of the research provided for in this chapter.

SEC. 706. Section 8053 of the Welfare and Institutions Code is amended to read:

8053. The State Department of Mental Health with the approval of the Director of Finance may accept gifts or grants from any source for the accomplishment of the objects and purposes of this chapter. The provisions of Section 16302 of the Government Code do not apply to such gifts or grants and the money so received shall be expended to carry out the purposes of this chapter, subject to any limitation contained in such gift or grant.

SEC. 707. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The State Department of Mental Health shall keep and maintain records necessary to identify any person who comes within any of the provisions of this chapter. Such records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for explosives as defined in Section 12000 of the Health and Safety Code, concealable weapons as defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code and destructive devices as defined in Section 12301 of the Penal Code. Such records shall not be furnished or made available to any person unless the department determines that disclosure of any information in such records is necessary to carry out its duties with respect to applications for permits for explosives, destructive devices, concealable weapons, and machineguns.

SEC. 708. Section 8105 of the Welfare and Institutions Code is amended to read:

8105. Upon request of the State Department of Mental Health, each public and private mental hospital, sanitarium, and institution shall submit to the department such information with respect to mental patients and former mental patients as the department deems necessary to carry out its duties under Section 8104.

SEC. 709. Section 8200 of the Welfare and Institutions Code is amended to read:

8200. If provision is made by law of the United States for the administration by public agencies of this state of federal appropriations for the welfare of the Indians in this state, such state agencies may administer the expenditure of such federal appropriations within the scope of their legal powers.

The State Department of Health Services shall administer the expenditure of all such federal appropriations for the care and hospitalization of, and for medical attention to, sick or injured Indians and for the control and prevention of communicable and infectious diseases and general sanitation among the Indians in this

state.

The State Department of Education shall administer the expenditure of such federal appropriations for the construction and maintenance of schools and the education of the Indians in this state.

The State Department of Health Services shall administer the expenditure of such federal appropriations for the relief of aged, infirm, and indigent Indians in this state.

Subject to such limitations as the law of the United States or the Secretary of the Interior lawfully imposes upon the administration of such funds, the state departments above mentioned may expend the same for the purposes within their respective jurisdictions which the respective heads of the departments deem best to conserve the interests and welfare of all the Indians residing within the state.

SEC. 710. The heading of Chapter 6 (commencing with Section 8250) of Division 8 of the Welfare and Institutions Code is amended to read:

CHAPTER 6. OFFICE OF SPECIAL SERVICES, HEALTH AND WELFARE AGENCY

SEC. 711. Section 8250 of the Welfare and Institutions Code is amended to read:

8250. There is hereby created in the Health and Welfare Agency an Office of Special Services under the control of an executive officer appointed by and holding office at the pleasure of the Governor. The duties and functions of this office shall be to:

(a) Coordinate, oversee, direct and harmonize the work of the several offices, councils, commissions and boards in the Health and Welfare Agency.

(b) Assist such offices, councils, commissions and boards in meeting the goals and priorities each such unit has established.

(c) Assure that there is no duplication of work, effort or programs among or between the several offices, councils, commissions and boards.

(d) Render such services as may be needed by any such office, council, commission or board.

(e) Perform such special studies or services as may be requested by the Secretary of the Health and Welfare Agency or by any department within the Health and Welfare Agency with the express approval of the Secretary.

SEC. 712. Section 9310 of the Welfare and Institutions Code is amended to read:

9310. (a) The State Department of Health Services shall provide appropriate flu vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first, for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service. The State Department of Health Services and

the State Department of Aging shall prepare, publish, and disseminate information regarding the availability of such vaccines and the effectiveness of such vaccines in protecting the health of older persons.

(b) The program shall be designed to utilize voluntary assistance from public or private sectors in administering such vaccines. However, local governmental or private, nonprofit agencies may charge and retain a fee not exceeding one dollar ($1) per person to offset administrative operating costs.

(c) Except when the State Department of Health Services determines that it is not feasible to utilize federal funds due to excessive administrative costs, the State Department of Health Services shall seek and utilize available federal funds to the maximum extent possible for the cost of the vaccine, the cost of administering the vaccine and the minimal fee charged under this section, including reimbursement under the Medi-Cal program for persons eligible therefor to the extent permitted by federal law.

(d) Administration of the vaccine shall be performed either by a physician, registered nurse or a licensed vocational nurse acting within the scope of their professional practice acts. The physician under whose direction the registered nurse or a licensed vocational nurse is acting shall require such nurse to satisfactorily demonstrate familiarity with (1) contraindication for the administration of such immunizing agents, (2) treatment of possible anaphylactic reactions, and (3) the administration of treatment, and reactions to such immunizing agents.

Nothing in this section shall be construed to require physical presence of a directing or supervising physician, or the examination by a physician of persons to be tested or immunized.

SEC. 713. Section 10020 of the Welfare and Institutions Code is amended to read:

10020. No person having private health care coverage shall be entitled to receive the same health care furnished or paid for by a publicly funded health care program. As used in this chapter, "publicly funded health care program" shall mean care or services rendered by a local government or any facility thereof, or health care services for which payment is made under the California Medical Assistance Program established by Chapter 7 (commencing with Section 14000) of Part 3 of this division by the State Department of Health Services or by its fiscal intermediary, or by a carrier or other organization with which the State Department of Health Services has contracted to furnish such services or to pay providers who furnish such services. As used in this chapter, "private health care coverage" means: (a) service benefit plans under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services rendered to employees or annuitants or family members, or under which, under certain conditions, payment is made by a carrier to the employee or annuitant or family member; (b) indemnity benefit plans under which a carrier agrees to pay

certain sums of money, not in excess of actual expenses incurred, for health services; and (c) individual practice prepayment plans which offer health services in whole or in part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under such conditions as may be prescribed by the board, to accept the payments provided by the plans as full payment for covered services rendered by them.

If such person receives health care furnished or paid for by a publicly funded health care program, the carrier of his private health care coverage shall reimburse the publicly funded health care program the cost incurred in rendering such care to the extent of the benefits provided under the terms of the policy for the services rendered.

SEC. 714. Section 10051 of the Welfare and Institutions Code is amended to read:

10051. "Public social services" means those activities and functions of state and local government administered or supervised by the department or the State Department of Health Services and involved in providing aid or services or both, including health care services and medical assistance, to those people of the state who, because of their economic circumstances or social condition, are in need thereof and may benefit thereby.

SEC. 715. Section 10052 of the Welfare and Institutions Code is amended to read:

10052. "Aid" means financial assistance provided to or in behalf of needy persons under the terms of this division, including direct money payments and vendor payments.

SEC. 716. Section 10053 of the Welfare and Institutions Code is amended to read:

10053. "Services" means those activities and functions performed by social work staff and related personnel of the department and county departments with or in behalf of individuals or families, which are directed toward the improvement of the capabilities of such individuals or families maintaining or achieving a sound family life, rehabilitation, self-care, and economic independence.

Services for children shall include the coordinated efforts of the State Departments of Social Services and Education to insure that all children in receipt of aid under Aid to Families with Dependent Children are afforded the opportunity to participate and progress under an educational program which will lead to their functioning at full capacity upon reaching maturity. The educational services aspect of public social services includes education for parents in food preparation and provision for nutritional supplements to the extent necessary and as authorized by Article 7 (commencing with Section 11901) of Chapter 4 of Division 9 of the Education Code.

SEC. 717. Section 10053.2 of the Welfare and Institutions Code is amended to read:

10053.2. Family planning services shall be offered to all former, current or potential recipients of childbearing age (as provided by

Public Law 92-603) and provided to all such eligible individuals who voluntarily request such services. Such services shall be offered and provided without regard to marital status, age, or parenthood. Notwithstanding any other provisions of law, the furnishing of these family planning services shall not require the consent of anyone other than the person who is to receive them. Within the meaning of this section, the term "former, current or potential recipient" shall mean all persons eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) of Part 3 of this division and all persons eligible for social services for which federal reimbursement is available under the Social Security Act, except that the term "potential recipients" shall in all cases include all persons in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

Family planning services shall include, but not be limited to:

(a) Medical treatment and procedures defined as family planning services under the published Medi-Cal scope of benefits.

(b) Medical contraceptive services such as diagnosis, treatment, supplies, and followup.

(c) Informational and educational services.

(d) Facilitating services such as transportation and child care services needed to attend clinic or other appointments.

To the extent the services under this section are not available under the Medi-Cal program, they shall be provided by contracts between authorized public or private agencies offering family planning services and the State Department of Health Services. Such contracts shall include to the maximum extent possible, cooperative funding and other financial arrangements which permit maximum use of available federal funds. Information and referral services only shall be available to all other families and children.

SEC. 718. Section 10053.3 of the Welfare and Institutions Code is amended to read:

10053.3. The county welfare departments shall develop and submit to the Health and Welfare Agency a quarterly statistical report on the operation of Section 10053.2 to document the effectiveness of this program. Such report shall include, but not be limited to:

(a) A description of the procedures used to inform former, current, and potential recipients of childbearing age of their eligibility for and the availability of family planning services.

(b) The number of current recipients of childbearing age offered family planning services during the quarter.

(c) The number of referrals to family planning clinics by the county welfare departments.

The Department of Health Services shall prepare a report setting forth such information by counties and submit its report to the Legislature no later than 60 days after the end of each quarter. Such report shall also include, but not be limited to the following:

(a) The number of visits to family planning clinics and Medi-Cal providers, the medical contraceptive and other services provided at those visits, categorized according to former, current, or potential recipients.

(b) The number of live births per 1,000 current female recipients of childbearing age during the quarter.

(c) The number of live births per 1,000 females of childbearing age resident in the county during the quarter.

SEC. 719. Section 10053.5 of the Welfare and Institutions Code is amended to read:

10053.5. The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the Department of Benefit Payments with respect to the processing, audit, and payment of claims for family planning services under this part. Moneys, funds, and appropriations available to the Department of Benefit Payments for the purposes of this section shall be made available to the State Department of Health Services by the Director of Benefit Payments for the purposes of this section after such moneys, funds, and appropriations have been appropriated to or received by the Department of Benefit Payments.

SEC. 720. Section 10053.6 of the Welfare and Institutions Code is amended to read:

10053.6. The State Department of Health Services shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 10053.5.

SEC. 721. Section 10053.7 of the Welfare and Institutions Code, as added by Chapter 485 of the Statutes of 1973, is amended and renumbered to read:

10053.9. The department shall establish within its certified family care program respite care services for the developmentally disabled. Such respite care services shall be available to both certified family home caretakers and to persons referred by the regional centers for the developmentally disabled. For purposes of this section, respite care means temporary and intermittent care provided for short periods of time.

The rate of reimbursement for such respite care service shall be established by the department after it conducts a study to determine if there are increased costs inherent in the provision of an intermittent and irregular service.

SEC. 722. Section 10053.7 of the Welfare and Institutions Code, as added by Chapter 1212 of the Statutes of 1973, is amended to read:

10053.7. All officers and employees of the Director of Benefit Payments who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of

Health Services by Section 10053.5 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 723. Section 10053.8 of the Welfare and Institutions Code is amended to read:

10053.8. The State Department of Mental Health may directly, or through the county department, provide protective social services for the care of mentally disordered patients released from state hospitals or to prevent the unnecessary admission of mentally disordered persons to hospitals at public expense or to facilitate the release of mentally disordered patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the county Short-Doyle plan for the county.

The State Department of Mental Health, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home, certified by the State Department of Mental Health, for mentally disordered persons described in, and subject to the request and plan conditions of, the immediately preceding paragraph. The monthly rate for such private home care shall be set by the State Department of Mental Health at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

For all such persons without public or private financial resources who are placed in private homes at state expense, the State Department of Mental Health may provide from local assistance budget funds, at a rate to be determined by the Secretary of the Health and Welfare Agency, moneys necessary to furnish clothing and to meet incidental living expenses.

Any funds expended for the care of persons in a private home certified by the State Department of Mental Health, including costs of administration and staffing and including money necessary to furnish clothing and to meet incidental living expenses, at the request of the local director of a mental health service pursuant to this section shall be expended by the State Department of Mental Health only if the State Department of Mental Health and the local mental health service enter a contract in accordance with the Short-Doyle Act (Part 2 (commencing with Section 5600), Division 5 of this code) under which the county shall reimburse the State Department of Mental Health for 10 percent of the amount expended by the State Department of Mental Health, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10 percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

The State Department of Mental Health may provide services pursuant to this section directly or through contract with public or private entities.

The State Department of Mental Health, may directly, or through the county department, provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed mentally disordered patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the State Department of Mental Health for that purpose or for the support of patients in state hospitals for the mentally disordered.

In facilitating the release of mentally disordered patients or persons who have been mentally disordered patients to suitably licensed facilities, the State Department of Mental Health shall provide the licensee with information concerning the previous conduct of the patients which would be relevant in determining the suitability of the particular facility for the patient and the suitability of placement of such patient in such facility. The release of this information shall be consistent with the confidentiality guidelines under the Lanterman-Petris-Short Act and the Short-Doyle Act.

SEC. 724. Section 10053.85 is added to the Welfare and Institutions Code, to read:

10053.85. The State Department of Developmental Services may directly, or through the county department, provide protective social services for the care of developmentally disabled patients released from state hospitals of the State Department of Developmental Services or to prevent the unnecessary admission of developmentally disabled persons to hospitals at public expense or to facilitate the release of developmentally disabled patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the areawide plan for the developmentally disabled.

The State Department of Developmental Services, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home, certified by the State Department of Developmental Services, for developmentally disabled persons described in, and subject to the request and plan conditions of, the immediately preceding paragraph. The monthly rate for such private home care shall be set by the State Department of Developmental Services at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment

toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

It is the legislative intent that the State Department of Developmental Services may make the fullest possible use of available resources in serving developmentally disabled persons.

The State Department of Developmental Services may provide services pursuant to this section directly or through contract with public or private entities.

Notwithstanding any other provision of law, any contract or grant entered into with a public or private nonprofit corporation for the provision of services to developmentally disabled persons may provide for periodic advance payments for services to be performed under such contract. No advanced payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

The State Department of Developmental Services may directly, or through the county department, provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed developmentally disabled patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the State Department of Developmental Services for that purpose or for the support of patients in state hospitals.

SEC. 725. Section 10054 of the Welfare and Institutions Code is amended to read:

10054. "Department" means the State Department of Social Services.

SEC. 726. Section 10055 of the Welfare and Institutions Code is amended to read:

10055. "Director" means the Director of Social Services.

SEC. 727. Section 10056 of the Welfare and Institutions Code is amended to read:

10056. "Board" means the State Social Services Advisory Board. Whenever any reference is made in any provision of law to the "State Benefits and Services Advisory Board", it shall mean the State Social Services Advisory Board.

SEC. 728. Section 10060 of the Welfare and Institutions Code is amended to read:

10060. "Regulations" includes but is not limited to standards of eligibility for aid and services, procedures necessary for the proper and efficient administration of public social services, and standards as to conditions which must be met by agencies or individuals subject to licensing or supervision by the department or the State Department of Health Services.

SEC. 729. Section 10062 of the Welfare and Institutions Code is amended to read:

10062. Notwithstanding any other provision of law, the State Department of Health Services and the Director of Health Services

shall have those powers and duties conferred by state law upon the State Department of Social Services and its director as is necessary to carry out the purposes imposed on it by this chapter.

SEC. 730. Section 10544.3 of the Welfare and Institutions Code is repealed.

SEC. 731. The heading of Chapter 2 (commencing with Section 10550) of Part 2 of Division 9 of the Welfare and Institutions Code is amended to read:

CHAPTER 2. STATE DEPARTMENT OF SOCIAL SERVICES

SEC. 732. Section 10550 of the Welfare and Institution Code is amended to read:

10550. There is in the Health and Welfare Agency a State Department of Social Services.

SEC. 733. Section 10551 of the Welfare and Institutions Code is amended to read:

10551. The department consists of the director, the State Social Services Advisory Board, and such divisions or other administrative units as the director may find necessary.

SEC. 734. Section 10552.5 of the Welfare and Institutions Code is amended to read:

10552.5. The director and the Director of Health Services shall jointly review and evaluate the systems within the Health and Welfare Agency for the payment and computation of benefits, insurance, and subvention moneys. The two directors shall jointly determine the adequacy and effectiveness of the payment systems, whether the payment systems are consistent and compatible, and whether adequate fiscal accountability exists.

SEC. 735. Section 10553 of the Welfare and Institutions Code is amended to read:

10553. The director shall:

(a) Be responsible for the management of the department.

(b) Administer the laws pertaining to the administration of public social services, except health care services and medical assistance.

(c) Observe and report to the Governor on the conditions of public social services, except health care services and medical assistance, throughout the state.

(d) Perform the disability determination function pursuant to Titles II and XVI of the federal Social Security Act.

(e) Formulate, adopt, amend or repeal regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the department and which are consistent with law and necessary for the administration of public social services, except health care services and medical assistance, and the disability determination function pursuant to Titles II and XVI of the federal Social Security Act.

All regulations relating to public social services, except health care services and medical assistance, and the disability determination

function pursuant to Titles II and XVI of the federal Social Security Act, heretofore adopted pursuant to this division by the State Department of Health, the State Department of Benefit Payments, or any predecessor department, and in effect on the operative date of amendments to this section enacted by the Legislature during the 1977 portion of the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the director.

(f) Perform such other duties as may be prescribed by law, and such other administrative and executive duties as have by other provisions of law been previously imposed.

SEC. 736. Section 10553.1 of the Welfare and Institutions Code is repealed.

SEC. 737. Section 10554 of the Welfare and Institutions Code is amended to read:

10554. The director is the only person authorized to adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law enforced by the department, and such regulations, orders, and standards shall be adopted, amended, or repealed by the director only in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, provided that such regulations need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department.

In adopting regulations the director shall strive for clarity of language which may be readily understood by those administering public social services or subject to such regulations.

The rules of the department need not specify or include the detail of forms, reports or records, but shall include the essential authority by which any person, agency, organization, association or institution subject to the supervision or investigation of the department is required to use, submit or maintain such forms, reports or records.

SEC. 738. Section 10554.1 of the Welfare and Institutions Code is repealed.

SEC. 739. Section 10554.2 of the Welfare and Institutions Code is repealed.

SEC. 740. Section 10557 of the Welfare and Institutions Code is amended to read:

10557. No person, while holding the office of director or member of the State Social Services Advisory Board, shall be a trustee, manager, director, or other officer or employee of any agency performing any function supervised by the department or any institution which is subject to examination, inspection, or supervision by the department; nor shall any member of the State Social Services Advisory Board hold any other office or employment in the department.

SEC. 741. Section 10559 of the Welfare and Institutions Code is amended to read:

10559. There is in the department a division or office devoted to carrying out the provisions of this division pertaining to services to the blind. The division or office shall be headed by a chief, who is a trained social worker experienced in work for the blind. The duties of both the division and the chief shall be confined to carrying out the provisions of this division and the chief shall be confined to carrying out the provisions of this division pertaining to services to the blind. Blindness shall not be grounds to disqualify a person from holding the position of chief of the office or division. The division or office shall not be made a part of any other division, office, or subdivision of the department. The chief of the division or office shall be directly responsible to the director.

The director through the division or office may provide consultative services to county personnel administering services to the blind which shall include, but not be limited to, information concerning the various aspects of blindness and its problems and implications, the rehabilitative potential of the blind, public and private services available, employment opportunities for blind persons, and concepts in counseling blind persons.

SEC. 742. Section 10560 of the Welfare and Institutions Code is amended to read:

10560. The department and each county department shall, to the extent feasible, train recipients of public assistance and potential recipients for private employment or for government service. Employment by the state or counties shall be subject to applicable civil service and merit system requirements.

The provisions of this section may be accomplished in conjunction with the provisions of a contract between the department and the State Department of Education, or Employment Development Department, or Department of Rehabilitation.

SEC. 743. Section 10600 of the Welfare and Institutions Code is amended to read:

10600. It is hereby declared that provision for public social services in this code is a matter of statewide concern. The department is hereby designated as the single state agency with full power to supervise every phase of the administration of public social services, except health care services and medical assistance, for which grants-in-aid are received from the United States government or made by the state in order to secure full compliance with the applicable provisions of state and federal laws.

SEC. 744. Section 10600.1 of the Welfare and Institutions Code is repealed.

SEC. 745. Section 10600.1 is added to the Welfare and Institutions Code, to read:

10600.1. The State Department of Social Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health or the State Department of Benefit Payments pursuant to the provisions of this division, except those contained in Chapter 7 (commencing with

Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3, on the date immediately prior to the date this section becomes operative.

The State Department of Social Services also succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health with respect to its disability determination function performed pursuant to Titles II and XVI of the federal Social Security Act; provided, however, that this paragraph shall not vest in the State Department of Social Services any power or authority over programs for aid or rehabilitation of mentally disordered or developmentally disabled persons administered by the State Department of Mental Health or the State Department of Developmental Services.

SEC. 746. Section 10600.2 of the Welfare and Institutions Code is amended to read:

10600.2. The State Department of Social Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Director of Health or the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Social Services by Section 10600.1.

SEC. 747. Section 10600.3 of the Welfare and Institutions Code is amended to read:

10600.3. All officers and employees of the Director of Health or the Director of Benefit Payments who, on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Social Services by Section 10600.1 shall be transferred to the State Department of Social Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Social Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 748. Section 10602 of the Welfare and Institutions Code is amended to read:

10602. The department shall investigate, examine and make reports upon:

(a) The charitable institutions of the state and of the counties and cities of the state, other than county hospitals and institutions under the jurisdiction of another state department.

(b) The public officers who are in any way responsible for the administration of public funds used for public social services which are administered by the department.

SEC. 749. Section 10602.1 of the Welfare and Institutions Code is repealed.

SEC. 750. Section 10603 of the Welfare and Institutions Code is

amended to read:

10603. The department shall advise public officers regarding the administration of public social services by public agencies throughout the state, and shall supervise the administration of state public social services, except health care services and medical assistance, to all persons receiving or eligible to receive such state public social services. It shall also supervise the expenditure of any funds for Indian relief which may be granted to the state by the federal government.

SEC. 751. Section 10603.1 of the Welfare and Institutions Code is repealed.

SEC. 752. Section 10603.3 of the Welfare and Institutions Code is amended to read:

10603.3. The department and the State Department of Rehabilitation shall make an annual report to the Legislature on the action taken by each department in implementing their respective responsibilities as the single state agency.

SEC. 753. Section 10604 of the Welfare and Institutions Code is amended to read:

10604. In administering any funds appropriated or made available for disbursement through the counties for welfare purposes, the department shall:

(a) Require as a condition for receiving such grants-in-aid, that the county shall bear that proportion of the total expense of furnishing aid, as is fixed by the law relating to such aid.

(b) Establish regulations not in conflict with the law fixing statewide standards for the administration of all state or federally assisted public social services, except health care services and medical assistance, which define and control the conditions under which such services may be granted or refused. All regulations established by the department shall be binding upon the boards of supervisors and the county department.

SEC. 754. Section 10604.1 of the Welfare and Institutions Code is repealed.

SEC. 755. Section 10605 of the Welfare and Institutions Code is amended to read:

10605. If the director considers a county director to be failing, in a substantial manner, to comply with any provision of this code or any regulation, pertaining to the administration of public social services, except health care services and medical assistance, the director shall put the county director on written notice to that effect, and shall give a copy of the notice to the board of supervisors.

If within 60 days the county director fails to give reasonable assurance that he is complying and will continue to comply with the laws and regulations, the director shall order the county to appear at a hearing, before the director, with the State Social Services Advisory Board, to show cause why the director should not take action to secure compliance. The county shall be given at least 30 days' notice of such hearing. The director shall consider the case on

the record established at the hearing, and the advice of the State Social Services Advisory Board, and, within 30 days, shall render proposed findings and a proposed decision on the issues. The proposed findings and decision shall be submitted to the county, and the county shall have an opportunity to appear within 10 days at such time and place as may be fixed by the director, for the purpose of presenting oral arguments respecting the proposed findings and decision. Thereupon the director shall make his final findings and decision.

If the director determines that there is a failure on the part of the county to comply with the provisions of this code or the established regulations, or if the State Personnel Board certifies to the director that a county is not in conformity with established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the director may invoke any of the following sanctions:

(a) Withhold part or all of state and federal funds from such county until the county shall make a showing to the director of compliance; or

(b) Assume, temporarily, direct responsibility for the administration of any or all state-assisted public social service programs in such county, except health care services and medical assistance, until the county shall provide reasonable assurance to the director of its intention and ability to comply with such laws and regulations. During such period of state administrative responsibility for county programs, the director or his authorized representative shall have all of the powers and responsibilities of the county director, with the exception that he shall not be subject to the authority of the board of supervisors; or

(c) Bring an action in mandamus or such other action in court as may be appropriate to compel compliance. Any such action shall be entitled to a preference in setting a date for a hearing.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued public social services required by law.

Nothing contained in this section shall be construed as preventing a county from seeking judicial review of action taken by the director pursuant to this section under Section 1094.5 of the Code of Civil Procedure or, except in cases arising under Sections 10962 and 10963, from seeking injunctive relief when deemed appropriate.

SEC. 756. Section 10605.1 of the Welfare and Institutions Code is repealed.

SEC. 757. Section 10606.1 of the Welfare and Institutions Code is repealed.

SEC. 758. Section 10607.1 of the Welfare and Institutions Code is repealed.

SEC. 759. Section 10608 of the Welfare and Institutions Code is amended to read:

10608. Copies of all laws relating to any form of public social service for which state aid is granted to counties, and over the administration of which the department has supervision, and of all bulletins and rules and regulations of the department, shall be made available to the public and for public inspection during regular office hours at each county office administering such aid and in each local or regional office of the department.

SEC. 760. Section 10609 of the Welfare and Institutions Code is amended to read:

10609. The department may act as the agent or representative of or cooperate with the federal government in any matters within the scope of the functions of the department, for the administration of federal funds granted to this state or for any other purpose in furtherance of those functions.

The department may cooperate with the federal government, its agencies or instrumentalities, in establishing, extending, and strengthening services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, and may receive and expend all funds made available for such purposes by the federal government to the department, the state, a county, a district, a municipal corporation, or a political subdivision.

Any contract or agreement entered into by the department with the federal government or any agency thereof for the expenditure of any funds in the exercise of any power granted to the department by this section shall be subject to approval by the State Department of Finance.

SEC. 761. Section 10609.1 of the Welfare and Institutions Code is repealed.

SEC. 762. Section 10610 of the Welfare and Institutions Code is amended to read:

10610. The department may join associations of social welfare agencies having as their purpose the interchanging or supplying of information relating to the technique of social welfare administration.

SEC. 763. Section 10611 of the Welfare and Institutions Code is amended to read:

10611. All plans for the use of existing buildings or for new buildings, parts of buildings, or additions to or alterations in buildings, for any public institution under the supervision of the department or for any state, city, or county charitable institution (other than county hospitals and institutions under the jurisdiction of another state department) or for any privately operated institution which receives state aid for the care or support of its inmates shall, before their adoption, be submitted to the department for suggestions and approval as to the social requirements of the occupants.

SEC. 764. Section 10613 of the Welfare and Institutions Code is amended to read:

10613. The functions of the department may include the administration and the supervision of the administration of public social services, except health care services and medical assistance, within this state as an agent of the federal government and acting as a service agency for the federal government in the field of social service and welfare.

SEC. 765. Section 10613.1 of the Welfare and Institutions Code is repealed.

SEC. 766. Section 10616 of the Welfare and Institutions Code is amended to read:

10616. The department shall formulate plans for the recruitment, utilization, and training of volunteers to assist in performing services and other duties for the county public social services for the purpose of improving participation in the county public welfare programs. Such plans shall not become effective in a county until approved by a resolution adopted by the board of supervisors.

SEC. 767. Section 10617 of the Welfare and Institutions Code is amended to read:

10617. In fixing rates for out-of-home care in nonmedical facilities authorized to provide care for recipients of public assistance, the department shall establish a rate plan providing a differential in rate allowances related to the differences in the degree of care required by recipients. The rate structure shall reflect differences in accordance with the specific types of services that are rendered by the facility in providing care for recipients.

In establishing the rate structure, the department shall strive to improve and increase the range of services provided by out-of-home facilities in order that recipients may receive the type of care they require at a reasonable cost.

In order to keep people in their own homes whenever possible, the department shall develop an expanded range of home care services that will make it possible for people to remain in their own homes or homes of their own choosing with safety. The department shall give particular attention to the training of homemakers to be employed directly by county departments.

In developing plans for the recruitment and training of homemakers, the department shall give priority to the training and employment of recipients of public assistance. Emphasis shall be given to arranging hours of work and training so that parents with primary responsibility for the care of children can participate in the program, to the extent not in conflict with federal law.

SEC. 768. Section 10652 of the Welfare and Institutions Code is amended to read:

10652. The department and the State Department of Rehabilitation, acting jointly, shall select public assistance recipients who qualify under either federal or state vocational rehabilitation laws, or both, as being in need of, and being able to benefit from, rehabilitation services pursuant to this chapter.

The two departments shall enter into a statewide agreement for

the purpose of implementing the provisions of this section.

Any agreement entered into by the two departments pursuant to this section shall include plans which provide for the most effective use of all federal funds available to the two departments. Such plans may include budgetary transfers, subject to authorization of the Director of Finance, when such transfer will result in increased funds available for vocational rehabilitation services for public assistance recipients, and for former and potential recipients.

All increased funds made available as a result of the implementation of agreements and plans made pursuant to this section, shall be used exclusively to provide vocational rehabilitation service for current, former, or potential public assistance recipients.

SEC. 769. The heading of Chapter 3 (commencing with Section 10700) of Part 2 of Division 9 of the Welfare and Institutions Code is amended to read:

CHAPTER 3 STATE SOCIAL SERVICES ADVISORY BOARD

SEC. 770. Section 10700 of the Welfare and Institutions Code is amended to read:

10700. The State Social Services Advisory Board consists of seven members. Each member of the board shall be appointed by the Governor with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. It shall be the duty of the Governor to fill all vacancies on the board within 60 days.

The members of the board shall be selected for their interest and leadership in programs within the jurisdiction of the department without regard to political or religious affiliations or profession or occupation.

SEC. 771. Section 10705 of the Welfare and Institutions Code is amended to read:

10705. The board shall:

(a) Study statewide problems related to programs within the jurisdiction of the department, as well as the needs of recipients and beneficiaries of such programs and determine how best to resolve such problems in a balanced manner considering the fiscal capabilities of both the state and the counties.

(b) Submit reports to the director, the Governor, and the Legislature, with suggestions and recommendations for administrative, executive, and legislative action to meet the problems of recipients and beneficiaries and to improve the administration of programs.

(c) Advise the director on all matters referred by him to the board for recommendation.

SEC. 772. Chapter 3.5 (commencing with Section 10720) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 3.5. STATE ADMINISTRATION OF HEALTH CARE SERVICES AND MEDICAL ASSISTANCE

Article 1. Organization

10720. As used in this chapter, "department" means the State Department of Health Services, and "director" means the State Director of Health Services.

10721. The director shall administer Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of this division and any other law pertaining to the administration of health care services and medical assistance. He shall perform such other duties as may be prescribed by law and shall observe and report to the Secretary of Health and Welfare and the Governor on the condition of health care services and medical assistance throughout the state

10722. The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health or the State Department of Benefit Payments pursuant to Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of this part on the date immediately prior to the date this section becomes operative. Functions transferred pursuant to this section include the management and administration of the Health Care Deposit Fund and the audit and recovery of amounts due as the result of payments made under the California Medical Assistance Program (Medi-Cal).

Transfer to the State Department of Health Services of the above functions shall not impair any contract between the State Department of Health or the State Department of Benefit Payments and any third party and such transfer shall neither create nor vest any right or obligation in either party. In no case shall the substitution of the State Department of Health Services for the State Department of Health or the State Department of Benefit Payments be considered a breach of contract or failure of performance, nor shall it disturb the legal relationships of the parties.

10723. The State Department of Health Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Director of Health or the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 10722.

10724. All officers and employees of the Director of Health and the Director of Benefit Payments who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 10722 shall be transferred to the State Department of Health Services. The status,

positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

10725. The director is the only person authorized to adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law enforced by the department, and such regulations, orders, and standards shall be adopted, amended, or repealed by the director only in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, provided that regulations relating to services need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department.

In adopting regulations the director shall strive for clarity of language which may be readily understood by those administering services or subject to such regulations.

The rules of the department need not specify or include the detail of forms, reports or records, but shall include the essential authority by which any person, agency, organization, association or institution subject to the supervision or investigation of the department is required to use, submit or maintain such forms, reports or records.

10726. All regulations heretofore adopted by the Director of the State Department of Benefit Payments which relate to payment, accounting, auditing and collection functions vested in the State Department of Health Services, or by the State Department of Health or any predecessor department which relate to health care services or medical assistance functions vested in the State Department of Health Services, and which are in effect on the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Benefit Payments.

Article 2. Powers and Duties

10740. It is hereby declared that provision for health care services and medical assistance in this code is a matter of statewide concern. The State Department of Health Services is hereby designated as the single state agency with full power to supervise every phase of the administration of health care services and medical assistance for which grants-in-aid are received from the United States government or made by the state in order to secure full compliance with the applicable provisions of state and federal laws.

The department shall make an annual report to the Legislature on the action taken by the department in implementing its responsibilities as the single state agency.

10741. The department shall investigate, examine and make reports upon the public officers who are in any way responsible for the administration of public funds used for health care services and

medical assistance.

10742. The department shall advise public officers regarding the administration of health care services and medical assistance by public agencies throughout the state, and shall supervise the administration of such services and assistance to all persons receiving or eligible to receive such services and assistance.

10743. In administering any funds appropriated or made available to the department for disbursement through the counties for welfare purposes, the department shall establish regulations, not in conflict with the law fixing statewide standards for the administration of all state or federally assisted health care services or medical assistance programs. All regulations established by the State Department of Health shall be binding upon the boards of supervisors and the county department.

10744. If the director considers a county director to be failing, in a substantial manner, to comply with any provision of this code or any regulation pertaining to the administration of health care services and medical assistance, he shall put the county director on written notice to that effect, and shall give a copy of the notice to the board of supervisors.

If within 60 days the county director fails to give reasonable assurance that he is complying and will continue to comply with the laws and regulations, the director shall order the county to appear at a hearing, before him to show cause why he should not take action to secure compliance. The county shall be given at least 30 days notice of such hearing. The director shall consider the case on the record established at the hearing and, within 30 days, shall render proposed findings and a proposed decision on the issues. The proposed findings and decisions shall be submitted to the county, and the county shall have an opportunity to appear within 10 days at such time and place as may be fixed by the director for the purpose of presenting oral arguments respecting the proposed findings and decision. Thereupon, the director shall make his final findings and decision.

If the director determines that there is a failure on the part of the county to comply with the provisions of this code or the established regulations, or if the State Personnel Board certifies to the director that a county is not in conformity with established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the director may invoke any of the following sanctions:

(a) Withhold part or all of state and federal funds from such county until the county shall make a showing to the director of compliance; or

(b) Assume, temporarily, direct responsibility for the administration of any or all state-aided health care services and medical assistance programs in such county until the county shall provide reasonable assurance to the director of its intention and

ability to comply with such laws and regulations. During such period of state administrative responsibility for county programs, the director or his authorized representative shall have all of the powers and responsibilities of the county director, with the exception that he shall not be subject to the authority of the board of supervisors; or

(c) Bring an action in mandamus or such other action in court as may be appropriate to compel compliance. Any such action shall be entitled to a preference in setting a date for a hearing.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued services required by law.

Nothing contained in this section shall be construed as preventing a county from seeking judicial review of action taken by the director pursuant to this section under Section 1094.5 of the Code of Civil Procedure or, except in cases arising under Sections 10962 and 10963, from seeking injunctive relief when deemed appropriate.

10745. The department shall cause to be published and made available for sale to the public, at the cost of publishing, all of its rules and regulations relating to:

(a) The government of the department.

(b) Any form of health care services or medical assistance for which state aid is granted to the counties or over the administration of which the department has supervision.

The department shall also provide at cost such subscription service as may be necessary to assure to purchasers of the printed rules and regulations with respect to services prompt receipt of all additions and amendments to the rules and regulations of the department.

10746. When the department causes to be published for public distribution informational pamphlets and related materials relating to public assistance programs administered or supervised by the department, they shall be printed in English and may be printed separately in Spanish, or at the discretion of the department, in English and Spanish, in such numbers as the department may determine.

10747. Copies of all laws relating to any form of public social service for which state aid is granted to counties, and over the administration of which the department has supervision, and of all bulletins and rules and regulations of the department, shall be made available to the public and for public inspection during regular office hours at each county office administering such aid and in each local or regional office of the department.

10748. The department may act as the agent or representative of or cooperate with the federal government in any matters within the scope of the functions of the department under this division, for the administration of federal funds granted to this state or for any other purpose in furtherance of those functions.

Any contract or agreement entered into by the department with the federal govenment or any agency thereof for the expenditure of any funds in the exercise of any power granted to the department

by this section shall be subject to approval by the State Department of Finance.

10749. The department may join associations of social welfare agencies having as their purpose the interchanging or supplying of information relating to the technique of social welfare administration.

10750. The functions of the department may include the administration and the supervision of the administration of health care services and medical assistance within this state as an agent of the federal government and acting as a service agency for the federal government in the field of health care services and medical assistance.

SEC. 773. Section 10800 of the Welfare and Institutions Code is amended to read:

10800. Subject to the provisions of Section 11050 and Chapter 3 (commencing with Section 12000) of Part 3, the administration of public social services in each of the several counties of the state is hereby declared to be a county function and responsibility and therefore rests upon the boards of supervisors in the respective counties pursuant to the applicable laws, and in the case of public social services for which federal or state funds are provided, subject to the regulations of the department and the State Department of Health Services.

For the purpose of providing for and carrying out this function and responsibility, the board of supervisors of each county, or other agency as may be otherwise provided by county charter, shall establish a county department, unless otherwise provided by the county charter. Except as provided herein, the county department shall be the county agency for the administration of public social services and for the promotion of public understanding of the public social services provided under this code and the problems with which they deal.

SEC. 774. Section 10802 of the Welfare and Institutions Code is amended to read:

10802. The county director shall, for and in behalf of the board of supervisors, have full charge of the county department and the responsibility for administering and enforcing the provisions of this code pertaining to public social services under the regulations of the department and the State Department of Health Services. He shall abide by all lawful directives of the department and the State Department of Health Services, transmitted through the board of supervisors.

SEC. 776. Section 10804.1 of the Welfare and Institutions Code is amended to read:

10804.1. The board of supervisors in any county may contract with any other county or counties or with the State Department of Health Services for the operation and maintenance of such services as are provided in one or more of the contracting counties, or for the establishment and maintenance of such services as the board of

supervisors shall deem to be desirable to discharge the duties of the county to provide for services for those eligible therefor or the health and care of the sick. The cost of contracted services shall be borne by the contracting county or counties and shall, insofar as state or federal funds are involved, conform to department standards and regulations generally applicable to such services.

SEC. 777. Section 10805 of the Welfare and Institutions Code is amended to read:

10805. Each worker employed by the State Department of Health Services shall be provided with an identification card, showing the name and position of the worker, and containing a recent picture. Upon calling at the home of any applicant for or recipient of public social services, the worker shall display the identification card to the applicant or recipient.

Should a worker terminate his employment with the agency, he shall return his identification card to the agency.

SEC. 778. Section 10806 of the Welfare and Institutions Code is amended to read:

10806. If a dispute occurs between counties as to the responsibility for public social services for an applicant or recipient, either county may submit the dispute to the department or the State Department of Health Services, whichever department has jurisdiction. The decision of the appropriate department shall be final.

SEC. 779. Section 10806.1 of the Welfare and Institutions Code is repealed.

SEC. 780. Section 10809 of the Welfare and Institutions Code is amended to read:

10809. The county department shall administer the public social services authorized or permitted under the applicable portions of this code in accordance with the regulations of the department and the State Department of Health Services.

The county department shall make such reports to the appropriate department as may be required.

SEC. 781. Section 10809.5 of the Welfare and Institutions Code is amended to read:

10809.5. Each county welfare department shall submit to the Department of Finance each month a copy of the monthly report of caseloads and expenditures submitted by the counties to the State Department of Social Services on the 237 report series entitled "Caseload Movement and Expenditure Report," relating to the following categories of assistance:

(1) Aid to the aged

(2) Aid to the blind and potentially self-supporting blind

(3) Aid to the disabled

(4) Aid to families with dependent children—unemployed persons

(5) Aid to families with dependent children—family groups

(6) Aid to families with dependent children—boarding homes

and institutions

(7) General home relief

The report shall be submitted to the Department of Finance at the same time that the report is submitted to the State Department of Social Services. The Department of Finance, upon receipt of the respective county reports, shall make the data contained therein immediately available to the Joint Legislative Budget Committee. In addition, this data shall be incorporated into and made an integral part of the budget data system.

SEC. 782. Section 10810 of the Welfare and Institutions Code is amended to read:

10810. Subject to the approval of the department each county department is authorized to sponsor and conduct programs for the recruitment, training, and utilization of volunteers to assist county department employees in the performance of office duties and to aid in performing services in the counties including but not limited to the following:

(a) Friendly visiting of the indigent aged;

(b) Finding homes for foster children;

(c) Escorting and transporting recipients to clinics and other destinations;

(d) Aiding in location of improved housing;

(e) Teaching homemaking skills and aiding in budgeting and care of the household;

(f) Providing tutoring and other educational aid.

Volunteers shall not duplicate services performed by county department employees.

The county department shall maintain the confidentiality of records of recipients.

SEC. 783. Section 10813.1 of the Welfare and Institutions Code is amended to read:

10813.1. Each county shall submit to the department by December 1, 1974, a comprehensive plan for the financing and delivery of social services for fiscal year 1975–76 to meet the purposes of Section 10053. Such plan shall specify a priority of services for adults and for families and children and shall be updated and resubmitted annually prior to December 1st of each year.

SEC. 784. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceedings conducted in connection with the administration of any such program. The disclosure of any

information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or Legislature is prohibited.

Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services or the State Department of Health Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services or the State Department of Health Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient. However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services. Any person knowingly and intentionally violating the provisions of this paragraph is guilty of a misdemeanor.

The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

The State Department of Social Services and the State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published

or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

SEC. 785. Section 10851.5 of the Welfare and Institutions Code is amended to read:

10851.5. Notwithstanding Section 10851, the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over three years old in any case file, active or inactive, after audit by the department or the State Department of Health Services.

SEC. 786. Section 10905 of the Welfare and Institutions Code is amended to read:

10905. If, when, and during such times as the federal government allots money to this state for training grants for public social services personnel, pursuant to Title VII of the Federal Social Security Act, the State Department of Health Services with respect to health care services, and the State Department of Social Services with respect to other social services, are authorized to act as the agents and representatives of this state.

SEC. 787. Section 10905.1 of the Welfare and Institutions Code is repealed.

SEC. 788. Section 10906 of the Welfare and Institutions Code is amended to read:

10906. Employees of the State Department of Social Services or the State Department of Health Services who are engaged in the administration of public social services are authorized (1) to attend courses of training provided by institutions of higher learning, (2) to attend special courses of study or seminars of short duration conducted by experts on a temporary basis for the purpose, (3) to accept fellowships or traineeships at institutions of higher learning with such stipends as are permitted by regulations of the federal government.

Any leave of absence granted to any employee of these departments, as authorized by this section, shall be subject to the approval of the State Personnel Board.

SEC. 789. Section 10950 of the Welfare and Institutions Code is amended to read:

10950. If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his application for or receipt of public social services, if his application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with such refusal, he shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for

a fair hearing.

For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties conferred on the Director of Social Services by this chapter to conduct fair hearings in order to secure approval of a state plan under the provisions of applicable federal law.

The State Director of Health Services may contract with the State Department of Social Services for the provisions of fair hearings in accordance with this chapter in which case "department" for purposes of this chapter shall mean the State Department of Health Services.

As used in this chapter, "recipient" means an applicant for or recipient of public social services except aid exclusively financed by county funds or aid under Chapter 3 (commencing with Section 12000) of Part 3 of this division.

SEC. 790. Section 10953 of the Welfare and Institutions Code is amended to read:

10953. A hearing under this chapter shall be conducted by referees employed by the department, unless the director orders that it shall be conducted by himself or by the administrative adviser of the department in behalf of the director; provided, however, the director may contract with the Office of Administrative Hearings to conduct hearings in cases involving complicated issues of fact or law, or to reduce the backlog of cases. The limitations placed upon the kinds of cases conducted by the Office of Administrative Hearings under this section shall not be considered jurisdictional.

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any hearing conducted under this chapter.

SEC. 791. Section 11006.9 of the Welfare and Institutions Code is amended to read:

11006.9. It is a cause for revocation of a permit or license by the State Department of Public Health or the State Department of Health Services for any person, association, or corporation that maintains, conducts, or, as manager or officer or in any other administrative capacity, assists in maintaining or conducting any skilled nursing facility or intermediate care facility or nonmedical board and care facility to obtain, as an additional cost of care, aid allocated to a recipient for his personal or incidental needs or to obtain and fail to deliver such aid allocation to the recipient. The State Department of Public Health or the State Department of Health Services shall initiate license or permit revocation proceedings.

SEC. 792. Section 11205 of the Welfare and Institutions Code is amended to read:

11205. It is the object and purpose of this chapter to provide aid for children whose dependency is caused by circumstances defined in Sections 11250 and 11251, to keep children in their own homes wherever possible, and to provide the best substitute for their own

homes for those children who must be given foster care.

Those engaged in the administration of aid under this chapter are responsible to the community for its effective, humane, and economical administration.

It is the intent of the Legislature that the children shall be given every opportunity to progress in the educational system and that their capacity for such shall not be impaired by nutritional deficiencies. The employment and self-maintenance of parents of needy children shall be encouraged to the maximum extent and this chapter shall be administered in such a way that needy children and their parents will be encouraged and inspired to assist in their own maintenance. The department shall take all steps necessary to implement this section.

SEC. 793. Section 11209 of the Welfare and Institutions Code is amended to read:

11209. The department shall make rules and regulations for the proper maintenance and care of needy children and for the administration of aid to families with dependent children. Such rules and regulations shall be binding upon the institutions and counties.

The department may inquire at any time into the management of any institution receiving aid under the provisions of this chapter or into the management by any county of aid to families with dependent children.

If an institution or a county fails to comply promptly with the provisions of this chapter and the rules and regulations of the department cannot be enforced in any other manner, the institution or county failing or refusing to comply with such provisions, rules, and regulations, or to permit the inquiry provided for in this section, shall not thereafter receive aid under the provisions of this chapter until it has complied with all such provisions, rules, and regulations and has permitted the inquiry by the department, if such inquiry is demanded.

SEC. 794. Section 11209.1 of the Welfare and Institutions Code is repealed.

SEC. 795. Section 11250 of the Welfare and Institutions Code is amended to read:

11250. Aid, services, or both shall be granted under the provisions of this chapter, and subject to the regulations of the department, to families with related children under the age of 18 years, except as provided in Section 11253, in need thereof because they have been deprived of parental support or care due to:

(a) The death, physical or mental incapacity, or incarceration of a parent; or

(b) The divorce, separation or desertion of a parent or parents and resultant continued absence of a parent from the home for these or other reasons; or

(c) The unemployment of a parent or parents.

SEC. 796. Section 11251 of the Welfare and Institutions Code is amended to read:

11251. Aid and services shall also be provided under this chapter to or in behalf of any child under the age of 18, except as provided in Section 11253, who is in need and lacks parental support and care and who:

(a) Has been relinquished, for purposes of adoption, to a county adoption agency or an organization licensed by the department as an adoption agency, if such child was receiving assistance under this chapter at the time of relinquishment, or subsequent to relinquishment has been found to be unplaceable for adoption; or

(b) Lacks parental support for the same reasons set out in Section 11250, is in need of aid as well as protection or care by persons other than his parents, and has been placed in foster care for purposes of providing such care and protection.

For purposes of this chapter, "foster care" means care other than in the home of his parent or relative, as these terms are used in Title IV of the Federal Social Security Act.

SEC. 797. Section 11251.1 of the Welfare and Institutions Code is repealed.

SEC. 798. Section 11300 of the Welfare and Institutions Code is amended to read:

11300. A separate administrative unit in accordance with the provisions of Section 402(a) (19) (G) of the Social Security Act shall certify individuals who have registered under Section 11310 for employment or training in accordance with criteria for certification established by the department pursuant to subdivision (19) (G) of Section 402(a) of the Social Security Act as amended. In developing the criteria for certification the department shall consult with the Employment Development Department.

SEC. 799. Section 11301 of the Welfare and Institutions Code is amended to read:

11301. The State Department of Social Services shall identify the kinds of information regarding persons registered pursuant to Section 11310 which are required for the efficient administration of work incentive programs, and develop methods and procedures which will assure the prompt and orderly exchange of such information between the State Department of Social Services and the Employment Development Department. Such methods and procedures shall, when promulgated by the State Department of Social Services, be binding upon the county departments.

SEC. 800. Section 11306 of the Welfare and Institutions Code is amended to read:

11306. In formulating the minimum basic standards of adequate care pursuant to Section 11452, the State Department of Social Services shall establish an assistance payment plan and methods of grant computation that are designed to work in harmony with the employability plan developed by the Employment Development Department in accordance with the work incentive program administered by that department pursuant to Division 2 (commencing with Section 5000) of the Unemployment Insurance

Code. It is the intent of the Legislature that income and resources expected to be available to the recipient during the period the employability plan is in effect shall be estimated by the county department at the time the recipient is accepted as a participant under the work incentive program and at six-month intervals thereafter.

SEC. 801. Section 11307 of the Welfare and Institutions Code is amended to read:

11307. The department shall provide special safeguards, to the extent not in conflict with federal law, in the certification of a parent with primary responsibility for the care of preschool age children for participation in work incentive programs to assure that such participation shall be in the best interest of such parent and the parent's family, and that adequate child care will be provided in such parent's absence.

SEC. 802. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. An institution maintaining a needy child may make application to the department for aid for the child. Upon receipt of documents and facts establishing the eligibility of a needy child under this chapter, the director shall award aid to such child to be paid to the institution in an amount not to exceed 67.5 percent of eighty-five dollars ($85) per month, or so much thereof as is necessary for the adequate care of the child.

The maximum amount of aid payable under the previous paragraph shall be increased to one hundred dollars ($100) per month in assistance in those cases and during such times as the United States government contributes.

SEC. 803. Section 11450.6 of the Welfare and Institutions Code is amended to read:

11450.6. Out of any money made available under the provisions of Item 282 of the Budget Act of 1968, the department shall allocate to the county departments, together with any federal funds available, an amount equal to the nonfederal share of the total cost of child care services pursuant to this section. To the extent of funds so allocated, each county department shall provide child care services subject to the regulations of the State Department of Social Services for persons receiving aid under this chapter who are in need of such services because they are engaged in, or, if provided such services, could engage in a work incentive program or approved vocational development program.

SEC. 804. Section 11457 of the Welfare and Institutions Code is amended to read:

11457. Money from noncustodial parents for the support of a needy child with respect to whom an assignment under Section 11477 has been made shall be paid directly to the district attorney or his designee and shall not be paid directly to the family. Such absent parent support payments, when collected by or paid through any public officer or agency, shall be transmitted to the county

department providing aid under this chapter.

The State Department of Social Services, by regulation, shall establish procedures not in conflict with federal law, for the distribution of such noncustodial parent support payments.

If an amount collected as child support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under subdivision (a) of Section 11477 for the current months and all past months.

SEC. 805. Section 11475 of the Welfare and Institutions Code is amended to read:

11475. The department is hereby designated the single organizational unit whose duty it shall be to administer the state plan for securing child support and determining paternity. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements. The director shall, not later than February 1, 1976, and annually thereafter, report to the Legislature on the administration of the state plan for securing support and determining paternity. Such report shall include, but not be limited to, the following:

(a) Information on the administration of the program, including the number of cases and a summary of the amounts collected from noncustodial parents and an analysis of the disbursement of such funds to recipients, counties, and the state.

(b) An analysis of the cost effectiveness of the program.

(c) Any changes in federal statutes or regulations which have occurred on or after July 1, 1975.

The director shall formulate, adopt, amend or repeal, in accordance with provisions of Section 10554, regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the department and which are consistent with law and necessary for the administration of the state plan for securing child support and determining paternity. The department, with the cooperation of the Department of Justice, shall insure that there is an adequate organizational structure and sufficient staff to perform functions delegated to any governmental unit relating to Title IV-D of the Social Security Act.

SEC. 806. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing the obligation of parents to support their children and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. There shall

be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services.

Nothing herein shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with such departments approved by the State Department of Social Services.

SEC. 807. Section 11475.2 of the Welfare and Institutions Code is amended to read:

11475.2. If at any time the Director of Social Services considers any public agency, which is required by law, by delegation of the department, or by cooperative agreement, to perform functions relating to the state plan for securing child support and determining paternity, to be failing in a substantial manner to comply with any provision of the state plan, the director shall put such agency on written notice to that effect.

If the director determines that there is a failure on the part of such public agency to comply with the provisions of the state plan, or if the State Personnel Board certifies to the director that such public agency is not in conformity with applicable merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that sanctions are necessary to secure compliance, the director may invoke either or both of the following sanctions:

(a) Withhold part or all of state and federal funds, including incentive funds, from such public agency until the public agency shall make a showing to the director of full compliance; or

(b) Notify the Attorney General that there has been a failure to comply with the state plan and the Attorney General shall take appropriate action to secure compliance.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued operation of the state plan as required by law.

SEC. 808. Section 11477 of the Welfare and Institutions Code is amended to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall:

(a) Assign to the county any rights to support from any other person such applicant may have in their own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and which have accrued at the time such assignment is made. Receipt of public assistance under this chapter shall operate as an assignment by operation of law.

(b) Cooperate with the county welfare department and district attorney in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining any support

payments due any person for whom aid is requested or obtained. The State Department of Social Services shall establish an exclusive list of acts, in accordance with federal law, which shall be the only acts deemed to be a refusal to offer reasonable cooperation and assistance. The county welfare department shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that such applicant or recipient is ineligible. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing support and determining paternity, where applicable.

A recipient shall be considered to be cooperating with the county welfare department or the district attorney's office and they shall be eligible for aid, if otherwise eligible, if they cooperate to the best of their ability or have good cause for refusal to cooperate. The department, in accordance with federal law, shall establish standards for determining good cause for refusal to cooperate. With respect to any application or any questionnaire relating to any application, no questions on paternity shall be asked in cases where paternity is not legally an issue. Persons eligible for immediate aid pursuant to Section 11056 or Section 11266 shall receive such aid prior to completing the forms required to obtain child support and establish paternity, provided that they indicate they will cooperate in these matters. Appearances at public agencies required pursuant to this section, subsequent to certification of the applicant shall be scheduled with due regard for his parental duties and employment responsibilities. If an appearance is required at a time other than normal working hours, a statement as to the reason for such appearance shall be inserted in the file of the applicant.

If the relative with whom a child is living is found to be ineligible because of failure to comply with the provisions of this section, any aid for which such child is eligible will, to the extent required by federal law, be provided in the form of protective payments.

The county welfare department shall insure that all applicants for or recipients of aid under this chapter are properly notified of the conditions imposed by this section.

SEC. 809. Section 11478.5 of the Welfare and Institutions Code is amended to read:

11478.5. There is in the State Department of Justice a parent locator service showing, as far as is known, with respect to any parent who has deserted or abandoned any child:

(a) The full and true name of such parent together with any known aliases;

(b) Date and place of birth;

(c) Physical description;

(d) Social security number;

(e) Occupation;

(f) Military status and Veterans Administration or military service serial number;

(g) Last known address and date thereof;
(h) Driver's license number;
(i) Any police record; and
(j) Any further information that may be of assistance in locating the alleged abducting parent.

To effectuate the purposes of this section, the Attorney General shall, to the extent necessary, utilize the parent locator service in the Department of Health, Education, and Welfare, and, may request and shall receive from departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the State Department of Justice and the local public agencies to carry out their powers and duties to locate such parents and to enforce their liability for the support of their children and to locate and return abducted children and their parents. In addition the district attorneys shall submit to the Attorney General a uniform statistical report each month summarizing case and collection activity in their counties in connection with child support enforcement. The Attorney General shall adopt a uniform report form to be used by the district attorneys in submitting this monthly report. The purpose of this uniform monthly report is to facilitate the analysis of each county's performance in child support activities.

Any records established pursuant to the provisions of this section shall be available only to district attorneys, probation departments, state locator services, the federal parent locator service, and courts having jurisdiction in support, custody, abduction, or abandonment proceedings or actions.

The State Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of such locator service.

This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 810. Section 12252 of the Welfare and Institutions Code is amended to read:

12252. The department shall prepare and submit to the secretary a state plan for social services to the aged, blind and disabled that meets the requirements of the Social Security Act, the purposes of this article, and that will, together with the state plan for services to needy families, fully utilize and distribute the total federal allocation of funds for social services under the public assistance programs for any fiscal year pursuant to Section 15156. Such a plan shall include all the services listed in Section 12251.

SEC. 811. Section 12253 of the Welfare and Institutions Code is amended to read:

12253. The department and the State Department of Rehabilitation shall jointly develop plans for the orderly processing of cases referred to the State Department of Rehabilitation for a determination of feasibility and planning for vocational

rehabilitation.

To the extent permitted by federal law the State Department of Rehabilitation shall provide vocational rehabilitation services approved under the Vocational Rehabilitation Act to every individual referred pursuant to Section 1615 of Part A of Title XVI of the Social Security Act. The State Department of Rehabilitation may contract with individual counties to provide such services.

Vocational rehabilitation services provided under this section shall be financed, to the extent possible, under Section 1615(b) of Part A of Title XVI of the Social Security Act and shall be limited to the amounts appropriated for such purpose.

SEC. 812. Section 12301.5 of the Welfare and Institutions Code is amended to read:

12301.5. The department may secure to the extent feasible such in-home supportive and other health services for persons eligible under this article to which they are entitled under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of this part).

SEC. 813. Section 12302 of the Welfare and Institutions Code is amended to read:

12302. Each county welfare department shall develop and submit a plan to the State Department of Social Services that provides for the delivery services to meet the objectives and conditions of this article with regard to in-home supportive services.

In order to implement such a plan, an individual county may hire homemakers and other in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service, or may contract with a city, county, or city and county agency, a local health district, a voluntary nonprofit agency, a proprietary agency, or an individual or make direct payment to a recipient for the purchase of services.

SEC. 814. Section 12303 of the Welfare and Institutions Code is amended to read:

12303. A contract pursuant to Section 12302 shall include the following provisions:

(a) The cost of the service shall not exceed by more than 10 percent the allowable cost of the service as determined by the State Department of Social Services.

(b) The provider agency shall agree to give preference to the training and employment of recipients of public assistance or other low-income persons who would qualify for public assistance in the absence of such employment.

(c) The cost of the purchase of such service will qualify, where possible, for the maximum federal reimbursement.

The provisions of this section shall not restrict the right of a chartered county from providing a civil service classification for in-home supportive service personnel.

SEC. 815. Section 12303.7 of the Welfare and Institutions Code is amended to read:

12303.7. Any aged, or disabled applicant or recipient who is eligible for assistance under this article, whose disabilities prevent the use of cooking facilities at home, shall be given the option to receive an allowance of twenty-five dollars ($25) per month for an individual and fifty dollars ($50) per month for a married couple in lieu of the appropriate in-home food preparation and consumption services. The allowance under this section shall be in addition to any amount that the applicant or recipient is entitled to under this chapter. Such allowance shall not have the effect of exceeding the total cost maximum of Sections 12303.5 and 12304. Nothing in this section shall be construed to limit the applicant's or recipient's right to receive the allowance under this section and all other homemaker and chore services.

The State Department of Social Services shall adjust the amount of the allowance under this section to be equivalent to the amount of the special need allowance under subdivision (e) of Section 12200.

SEC. 816. Section 12304 of the Welfare and Institutions Code is amended to read:

12304. (a) Any aged, blind, or disabled individual eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500) who is severely impaired and in need of in-home supportive services, as determined by the county welfare department, shall be eligible to receive services under this article, the total cost of which does not exceed four hundred fifty dollars ($450) per month, plus adjustments reflecting cost-of-living changes subsequent to January 1, 1974, as determined under Section 12201. Increases in the maximum amount payable under this section shall not be construed to mean automatic increases in the amounts payable under this article.

(b) A severely impaired individual eligible for services under this article who is capable of handling his own financial and legal affairs shall be given the option of hiring and paying his own provider of in-home supportive services. For this purpose such individual shall be entitled to receive a monthly cash payment in advance not to exceed the maximum amount provided in subdivision (a) of this section, which is in addition to his grant, if any. A severely impaired individual who is not capable of handling his own financial and legal affairs shall be entitled to receive such cash payment through his guardian, conservator or protective payee.

(c) In no event shall the maximum total cost for services and advance cash payment for one individual recipient under subdivisions (a) and (b) of this section exceed the maximum of four hundred fifty dollars ($450) per month, as adjusted pursuant to subdivision (a) of this section.

(d) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his right to such services.

(e) For purposes of this section, a "severely impaired" recipient is one who requires in-home supportive care of at least 20 hours per

week to carry out any or all of the following:

(1) Routine bodily functions, such as bowel and bladder care;

(2) Dressing;

(3) Preparation and consumption of food.

(4) Moving into and out of bed;

(5) Routine bed bath; or

(6) Ambulation

(7) Or for any other function of daily living as determined by the director.

This determination of need must be supported by a medical report when requested and at the expense of the State Department of Social Services.

(f) The county welfare department shall review the provisions of services under this section at least every six months.

(g) Funding for the in-home supportive services under this section shall qualify, where possible, for the maximum federal reimbursement. In the event that such services are determined to be ineligible for federal financial participation, or to the extent that federal funds prove inadequate, the state shall provide funding for services under this section.

SEC. 817. Section 13911 of the Welfare and Institutions Code is amended to read:

13911. The director shall, by regulation, establish standards for specialized out-of-home care. The department shall establish rate schedules which include separate rates for room and board, for the specialized care component and for personal and incidental needs.

The director shall develop an overall plan which integrates the system of out-of-home nonmedical care facility services covered by the provision of this chapter with the system of medical care facility services covered by the provisions of Chapter 7 (commencing with Section 14000) of this part. The purpose of such overall plan shall be to maintain an appropriate balance between nonmedical and medical facilities to the end that recipients of public assistance or persons otherwise defined as needy by the provisions of this code are given the care they require at the lowest possible cost.

The plan established by the director pursuant to this section may include the use of an interdisciplinary review process to insure that persons are not placed or retained in medical care facilities when appropriate care can otherwise be provided at lower cost.

Nothing in this article shall be interpreted to preclude any facility licensed under the provisions of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code from providing out-of-home care services, provided such facilities meet the standards established by the provisions of this section.

SEC. 818. Section 13913 of the Welfare and Institutions Code is amended to read:

13913. The director shall submit an annual report to the Legislature by March 1 of each year setting forth pertinent facts on the operation of the program established by this chapter and its

significance in relation to the out-of-home care services of the Medi-Cal program.

SEC. 819. Section 14001 of the Welfare and Institutions Code is amended to read:

14001. Health care as administered under this chapter shall be considered a component of public social services.

SEC. 820. Section 14016 of the Welfare and Institutions Code is amended to read:

14016. The county in which the person resides shall determine the eligibility of each person pursuant to Sections 14005.1, 14005.4, and 14005.7, and each recipient of public assistance and, upon termination of such assistance, whether the person remains eligible for Medi-Cal coverage under one of said sections. It shall be the responsibility of the department to certify for Medi-Cal coverage those persons determined by the county to be eligible under Section 14005.7.

SEC. 821. Section 14017 of the Welfare and Institutions Code is amended to read·

14017. Each public assistance recipient, each eligible person under Section 14005.1 or 14005.4, and each person eligible under Section 14005.7 who is certified shall be provided, by the department, with a Medi-Cal card certifying his status, identification number, expiration date, and his entitlements, insofar as these do not require specific prior authorization. The department shall determine the form of the Medi-Cal card. Such cards shall be for a term as determined by the department and, unless canceled for cause, shall entitle individuals to care and service as indicated. Cause for cancellation shall exist when the person dies, loses state residence, is found to be ineligible, or the person has been issued a new Medi-Cal card.

SEC. 822. Section 14024 of the Welfare and Institutions Code is amended to read:

14024. When health care services are provided to a person under this chapter who at the time the service is provided has any other contractual or legal entitlement to such services, the director shall have the right to recover from the person, corporation, or partnership who owes such entitlement, the amount which would have been paid to the person entitled thereto, or to a third party in his behalf, or the value of the service actually provided, if the person entitled thereto was entitled to services. The Attorney General may, to recover under this section, institute and prosecute legal proceedings against the person, corporation, or partnership owning such entitlement in the appropriate court in the name of the director.

SEC. 823. Section 14053 of the Welfare and Institutions Code is repealed.

SEC. 824. Section 14053 is added to the Welfare and Institutions Code, to read:

14053. "Health care services" means the benefits set forth in

Article 4 (commencing with Section 14131) of this chapter and in Section 14021.

SEC. 825. Section 14061 of the Welfare and Institutions Code is amended to read:

14061. As used in this chapter, "director" means the State Director of Health Services.

SEC. 826. Section 14062 of the Welfare and Institutions Code is amended to read:

14062. As used in this chapter, "department" means the State Department of Health Services.

SEC. 827. Section 14064 is added to the Welfare and Institutions Code, to read:

14064. As used in this chapter and Chapter 8 (commencing with Section 14200) of this part, the terms "Department of Health," "State Department of Health," "Department of Benefit Payments," and "State Department of Benefit Payments" shall be construed to refer to and mean the State Department of Health Services.

SEC. 828. Section 14065 is added to the Welfare and Institutions Code, to read:

14065. As used in this chapter and Chapter 8 (commencing with Section 14200) of this part, the terms "Director of Health" and "Director of Benefit Payments" shall be construed to refer to and mean the State Director of Health Services.

SEC. 829. Section 14100.1 of the Welfare and Institutions Code is amended to read:

14100.1. For the purposes of administering this chapter and Chapter 8 (commencing with Section 14200) of this part, the State Director of Health Services shall have those powers and duties necessary to conform to requirements for securing approval of a state plan under the provisions of the applicable federal law and shall be the single state agency for purposes of Title XIX of the federal Social Security Act.

SEC. 830. Section 14101 of the Welfare and Institutions Code is amended to read:

14101. The director may contract with other state agencies for services in connection with the administration of this chapter and Chapter 8 (commencing with Section 14200) of this part.

SEC. 831. Section 14101.5 of the Welfare and Institutions Code is amended to read:

14101.5. The department and the State Department of Social Services shall provide to the other any information necessary for the performance of such department's duties under this chapter.

SEC. 832. Section 14102 of the Welfare and Institutions Code is repealed.

SEC. 833. Section 14103 of the Welfare and Institutions Code is repealed.

SEC. 834. Section 14103.1 of the Welfare and Institutions Code is repealed.

SEC. 835. Section 14104.3 of the Welfare and Institutions Code is

amended to read:

14104.3. (a) The department may, to the extent feasible, enter into nonexclusive contracts providing arrangements under which funds available for health care under this chapter shall be administered and disbursed to providers of health care or to their designated agents in consideration for services rendered and supplies furnished by them in accordance with the provisions of the applicable contract and any schedule of charges or formula for determining payments established pursuant to such contract. Such contract shall provide that the carrier:

(1) Will take such action as may be necessary to assure that payment for services to hospitals and other facilities and professional services shall be predicated on the basis of reimbursement for reasonable cost based on standards, determined by the director. The formula for such payments shall be determined in accordance with regulations establishing the methods to be used and the items to be included. In prescribing such regulations, the department shall consider, among other things, the principles generally applied by state organizations representing such hospitals or other facilities or by established prepayment organizations which have developed such principles, in determining the method or methods to be used in arriving at the payment formula.

(2) Will take such action as may be necessary to assure that where payment under this chapter is on a charge basis, such charge will be reasonable and not higher than the charge applicable for a comparable service and under comparable circumstances to the policyholders and subscribers of the carrier.

(3) Bills for service under this chapter shall be reviewed and payment or rejection made within 30 days from receipt of evidence establishing validity of the bill for payment in the office of the paying agency. If it is determined by the paying agency that additional evidence of validity is required, such evidence shall be requested within 30 days from the date the bill is received in the office of the paying agency. In any event, notice shall be given in 60 days from the date the bill is received concerning the status of the bill submitted if such bill is held for peer review in the office of the paying agency beyond 30 days.

(b) Contracts awarded under this section shall be awarded on a bid basis, and before entering into any such contract, the director shall publish notice soliciting bids.

The director, at least once each year, shall report to the Joint Legislative Budget Committee actions taken by him in the awarding of contracts under this section, including, but not limited to, the number and types of bids submitted, the basis on which contracts were awarded, and, if a contract is awarded to other than the lowest bidder, the reason for such action.

SEC. 836. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. The director shall prescribe the policies to be followed in

the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200) of this part. Standards for costs shall be based on payments of the reasonable cost for such services. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by it. The department shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within eighteen (18) months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

Insofar as practical, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall receive health care benefits.

If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Section 14005.1. When and if necessary, such action shall be taken by the director in ways consistent with the requirements of the Federal Social Security Act.

SEC. 837. Section 14105.5 of the Welfare and Institutions Code is amended to read:

14105.5. The director or prepaid health plans shall make no payment for services rendered prior to January 1, 1977, to any health facility which secures a license under the provisions of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code after July 1, 1970, covering a new facility or additional

bed capacity or the conversion of existing bed capacity to a different license category, unless such licensee received a favorable final decision by the voluntary area health planning agency in the area, the consumer members of a voluntary area health planning agency acting as an appeals body or the Advisory Health Council pursuant to Sections 437.7 to 438.5, inclusive, of the Health and Safety Code; or unless the licensee had filed an application for a license prior to January 1, 1970, and the application met all then-existing requirements and regulations of the appropriate state agency at the time of application including, at least, preliminary submission of plans, and if such licensee commences construction of his project prior to July 1, 1971, and if such licensee has on file with the department a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1973, and such licensee has on file with the county recorder and department a valid notice of construction completion indicating January 1, 1974, as the completion date; except that the department shall extend the foregoing dates by no more than a total of two years in the case of projects where delay has resulted from the death of the original applicant, and shall extend the foregoing dates by no more than a total of one year in the case of projects where other good cause has been shown why such extension should be granted. The exception provided for in the preceding sentence with respect to applications filed prior to January 1, 1970, except for transfers executed before November 30, 1970 or after July 1, 1971, shall not apply to transferees of the applications of the original applicants.

Voluntary area health planning agencies may extend, until July 1, 1972, the date upon which applicants, qualifying under the exception in this section, shall commence construction, if the voluntary area health planning agencies declare that good cause has been shown why such extension should be granted, provided that an applicant applying for such extension had, prior to January 1, 1970, received approval of a health planning association in the county wherein the applicant is located. Applicants receiving extension of the construction commencement date shall have on file with the department a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1974, and have on file with the county recorder and department a valid notice of construction completion indicating January 1, 1975, as the completion date; except that the department shall extend each of the foregoing dates by no more than a total of one year in the case of projects where good cause has been shown why such extension should be granted.

(a) For the purposes of this section, "substantial progress" is defined and evidenced as follows:

(1) For structures of three or fewer stories, completion of the foundations and footings; the structural frame; the mechanical,

electrical, and plumbing rough-in; the rough flooring; the exterior walls and windows; and the finished roof

(2) For structures of more than three stories, a contractor's schedule of work shall be filed with the department by January 1, 1973. Every three months thereafter, until completion, evidence shall be submitted to the department that construction is progressing on that schedule.

(b) For the purposes of this section, construction of a project is deemed commenced on the date the applicant was so notified by the department, if so notified, or on the date the applicant has completed not less than all of the following:

(1) Submission to the appropriate state agency of a written agreement executed between the applicant and a licensed general contractor to construct and complete the facility within a designated time schedule in accordance with final architectural plans and specifications approved by such agency.

(2) Obtaining such initial permits or approval for commencing work, on the project as is customarily issued for projects of the scope of applicant by the governmental agency having jurisdiction over the construction.

(3) Completion of construction work on the project to such a degree as to justify and require a progress payment by the applicant to the general contractor under terms of the construction agreement.

SEC. 838. Section 14110 of the Welfare and Institutions Code is amended to read:

14110. No payment for care or services shall be made under Medi-Cal to a medical or health care facility unless it has been certified by the department for participation, and:

(a) It is licensed by the department; or

(b) It is licensed by a comparable agency in another state; or

(c) It is exempt from licensure; or

(d) It is operated by the Regents of the University of California; or

(e) It meets the utilization review plan criteria for certification or is certified as an institutional provider of services under Title XVIII of the Federal Social Security Act and regulations issued thereunder.

Nothing in this section shall preclude payments for care for aged patients in medical facilities or institutions operated or licensed by the department, Mental Health, Developmental Services, Social Services, or Rehabilitation.

SEC. 839. Section 14110.5 of the Welfare and Institutions Code is amended to read:

14110.5. Effective January 1, 1977, no payment for any prescription ophthalmic device shall be made under Medi-Cal if that device does not meet the standards promulgated by the department, the State Board of Optometry or the Board of Medical Examiners under Section 2541.3 of the Business and Professions Code.

SEC. 840. Section 14120 of the Welfare and Institutions Code is

amended to read:

14120. (a) At the beginning of each fiscal year, for the current fiscal year, the director shall establish a monthly schedule of anticipated total payments and anticipated payments for categories of services, according to the categories established in the Governor's Budget. The schedule will be revised quarterly.

(b) The director shall report actual total payments and payments for categories of services, as set forth in subdivision (a), monthly to the Director of Finance and to the Joint Legislative Budget Committee.

(c) At any time during the fiscal year, if the director has reason to believe that the total cost of the program will exceed available funds, the director may, first modify the method or amount of payment for services provided that no amount shall be reduced more than 10 percent and no modification will conflict with federal law. If such modification is not sufficient to bring the program within available funds, the director may postpone elective services in the basic schedule of benefits. Such postponement of elective services shall be accomplished by changing the standards for approval of requests for prior authorizations. Such changes shall be designed to insure that those recipients most in need of elective services receive them first within the funds available, but that no particular service is completely eliminated.

(d) At any time during the fiscal year, if the total amounts paid since the beginning of the fiscal year exceed by 10 percent the amounts scheduled, the director shall immediately institute the action set forth in subdivision (c) above.

(c) At any time during the fiscal year, if the total amounts paid for any category of service exceeds by 10 percent the amounts scheduled (other than services for which the method or amount of payment is prescribed by the Secretary of Health, Education, and Welfare pursuant to Title XIX of the Federal Social Security Act), the director shall modify the method or amount of payment for such category of service to assure that the total amount paid for such category of service in the fiscal year shall be less than 10 percent in excess of the total amount scheduled provided the total cost of the program to the State General Fund will not exceed appropriated state general funds.

(f) Before any of the above actions are taken by the director, he shall consult with representatives of concerned provider groups.

SEC. 841. Section 14122 of the Welfare and Institutions Code is amended to read:

14122. The department may provide, by regulation and consistent with the requirements of the Federal Social Security Act, for the care and treatment, or both, of persons eligible for medical assistance pursuant to Sections 14005.1, 14005.4, and 14005.7 by providers in another state in those cases where out-of-state care or treatment is rendered on an emergency basis or is otherwise in the best interests of the person under the circumstances.

SEC. 842. Section 14124.1 of the Welfare and Institutions Code is amended to read:

14124.1. Each provider of health care services rendered to any beneficiary under this chapter shall keep and maintain records of each such service rendered, the beneficiary to whom rendered, the date, and such additional information as the department may by regulation require. Records herein required to be kept and maintained shall be retained by the provider for a period of three years from the date the service was rendered.

SEC. 843. Section 14124.2 of the Welfare and Institutions Code is amended to read:

14124.2. The department during normal working hours may make any examination of the books and records of any provider pertaining to services rendered to any beneficiary under this chapter, and may visit and inspect the premises or facilities of any provider it may deem necessary to carry out the provisions of this chapter and regulations adopted thereunder. A provider shall furnish such information or copies of such records and documentation upon request by the department. Unannounced visits to request such information shall be reserved for those exceptional situations where arrangement of an appointment beforehand is clearly not possible or is clearly inappropriate to the nature of the intended visit. Only those related books and records of each service rendered, the beneficiary to whom rendered, the date, and such additional information as the department may by regulation require shall be subject to the requirement of furnishing copies. Such information may include records to support and document the recipient's eligibility for services, and to the extent necessary records to provide proof of the quantity and receipt of such services, and that the services were provided by proper personnel. Providers shall be reimbursed for reasonable photocopying related expenses as determined by the department. Failure to comply with such request shall be grounds for immediate suspension of the provider under subdivision (b) of Section 14123.

Any copies furnished pursuant to this subdivision shall be used only to investigate and pursue criminal or administrative sanctions for Medi-Cal fraud and abuse, and such copies shall be destroyed when that purpose has been satisfied.

SEC. 844. Section 14124.5 of the Welfare and Institutions Code is amended to read:

14124.5. (a) The director may, in accordance with the provisions of Section 10725, adopt, amend or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state.

(b) All regulations heretofore adopted by the State Department

of Health or any predecessor department pursuant to this chapter and in effect on the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director in accordance with the provisions of Section 10725.

SEC. 845. Section 14124.6 of the Welfare and Institutions Code is amended to read:

14124.6. In the event the director orders that oral argument or a hearing be held upon a petition for reinstatement or reduction of penalty filed pursuant to Section 11522 of the Government Code, he may hear and decide the matter himself or may, in his discretion and with the consent of the Office of Administrative Hearings, either (1) sit and hear the matter with a hearing officer or (2) assign the matter to the Office of Administrative Hearings for hearing by a hearing officer, who shall prepare a proposed decision for the department for action pursuant to Section 11517 of the Government Code.

SEC. 846. Section 14124.70 of the Welfare and Institutions Code is amended to read:

14124.70. As used in this article:

(a) "Carrier" includes any insurer as defined in Section 23 of the Insurance Code, including any private company, corporation, mutual association, trust fund, reciprocal or interinsurance exchange authorized under the laws of this state to insure persons against liability or injuries caused to another, and also any insurer providing benefits under a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of a motor vehicle which provides uninsured motorist endorsement or coverage, pursuant to Section 11580.2 of the Insurance Code.

(b) "Beneficiary" means any person who has received benefits or will be provided benefits under this chapter because of an injury for which another person may be liable. It includes such beneficiary's guardian, conservator or other personal representative, his estate or survivors.

SEC. 847. The heading of Article 4.2 (commencing with Section 14131) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is amended and renumbered to read:

Article 4. The Medi-Cal Benefits Program

SEC. 849. Section 14133 of the Welfare and Institutions Code is amended to read:

14133. Utilization controls that may be applied to the services set forth in Section 14132 which are subject to utilization controls shall be limited to:

(a) Prior authorization, which is approval by a department consultant, of a specified service in advance of the rendering of that service based upon a determination of medical necessity. Prior authorization includes authorization for multiple services which are requested and granted on the basis of an extended treatment plan

where there is a need for continuity in the treatment of a chronic or extended condition.

(b) Postservice prepayment audit, which is review for medical necessity and program coverage after service was rendered but before payment is made. Payment may be withheld or reduced if the service rendered was not a covered benefit, deemed medically unnecessary or inappropriate. Nothing in this subdivision shall supersede the claims processing deadlines provided by Section 14104.3.

(c) Postservice postpayment audit, which is review for medical necessity and program coverage after service was rendered and the claim paid. The department may take appropriate steps to recover payments made if subsequent investigation uncovers evidence that the claim should not have been paid.

(d) Limitation on number of services, which means certain services may be restricted as to number within a specified time frame.

SEC. 850. Section 14133.5 of the Welfare and Institutions Code is amended to read.

14133.5. The department shall secure a toll free phone number for the use of pharmacists and other providers of Medi-Cal services listed in Section 14132 in requesting prior authorization for such services.

SEC. 851. Section 14142 of the Welfare and Institutions Code is amended to read

14142. Notwithstanding Section 14005.4 or 14005.7, a person who is otherwise eligible for dialysis and related services under Section 14005.4 or 14005.7, except for his income and resource eligibility, is eligible for dialysis and related services under Medi-Cal pursuant to this article, as follows:

(a) A person in a family unit with a net worth of less than five thousand dollars ($5,000) shall not be liable to pay for dialysis and related services.

(b) A person in a family unit with a net worth of five thousand dollars ($5,000) or above shall pay 1 percent of the cost of dialysis and related services for each five thousand dollars ($5,000) of net worth, up to a maximum net worth of five hundred thousand dollars ($500,000), which shall result in a person being liable for 100 percent of such costs.

SEC. 852. Section 14150 of the Welfare and Institutions Code is amended to read:

14150. (a) For the 1971–72 fiscal year, the county share toward the cost of care and administration provided under this chapter shall be the amount specified for the particular county in the following table:

Alameda	$11,832,000
Alpine	5,000
Amador	156,000

Butte	952,000
Calaveras	215,000
Colusa	142,000
Contra Costa	6,018,000
Del Norte	123,000
El Dorado	359,000
Fresno	6,873,000
Glenn	187,000
Humboldt	1,200,000
Imperial	430,000
Inyo	241,000
Kern	5,233,000
Kings	740,000
Lake	132,000
Lassen	124,000
Los Angeles	99,975,000
Madera	661,000
Marin	1,120,000
Mariposa	33,000
Mendocino	550,000
Merced	1,545,000
Modoc	120,000
Mono	31,000
Monterey	2,595,000
Napa	550,000
Nevada	425,000
Orange	10,395,000
Placer	913,000
Plumas	220,000
Riverside	5,160,000
Sacramento	8,627,000
San Benito	181,000
San Bernardino	6,462,000
San Diego	8,050,000
San Francisco	15,268,000
San Joaquin	7,390,000
San Luis Obispo	1,443,000
San Mateo	5,600,000
Santa Barbara	2,470,000
Santa Clara	9,400,000
Santa Cruz	1,335,000
Shasta	660,000
Sierra	13,000
Siskiyou	390,000
Solano	796,000
Sonoma	2,250,000
Stanislaus	2,630,000
Sutter	770,000
Tehama	290,000

Trinity	107,000
Tulare	2,845,000
Tuolumne	284,000
Ventura	2,776,000
Yolo	1,050,000
Yuba	750,000

The amount payable by each county in each subsequent year beginning with the 1972–73 fiscal year shall be determined by multiplying the base-year amount by the ratio of the county's modified assessed value in the subsequent year to the county's modified assessed value in the base year. The term "modified assessed value" means the total of (a) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (b) the product of the sum of (1) the taxable assessed value of county-assessed property, (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state, and (3) the sum of the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code times the average of the factor certified for the current year under Section 17261 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years. The assessed valuation equivalents of Section 27423 of the Government Code and Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the county's secured tax rate for the prior year.

For purposes of this subdivision commencing with the 1976–77 fiscal year, the term "taxable" assessed value of county-assessed property shall not include any assessed valuation upon which tax receipts are allocated to a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Division 24 of the Health and Safety Code.

The State Controller shall determine the amount payable by each particular county in subsequent fiscal years under this section.

(b) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

(c) Notwithstanding the provisions of Sections 5707, 5709.5, 5710, and 5714, payment for the costs of health care services provided under Part 2 (commencing with Section 5600), Division 5, of this code, the Short-Doyle Act, shall be made in accordance with the provisions of this section.

(d) Notwithstanding the provisions of Section 7511, payment for the share of costs of health care services provided under Chapter 4 (commencing with Section 7500), Division 7, of this code, shall be made in accordance with the provisions of this section.

SEC. 853. Section 14153 of the Welfare and Institutions Code is

amended to read:

14153. Funds shall be advanced monthly to the respective counties for costs of administration of the Medi-Cal program in the manner prescribed in Chapter 9 (commencing with Section 15000) of this part.

Funds may be advanced monthly to the respective counties for the costs of care under the provisions of this chapter upon the order of the Director of Finance and the State Director of Health Services utilizing resources made available through the Health Care Deposit Fund.

SEC. 854. Section 14157 of the Welfare and Institutions Code is amended to read:

14157. There is hereby established a Health Care Deposit Fund from which expenditures of state, county and federal funds for health care and administration under this chapter and Chapter 8 (commencing with Section 14200) shall be made upon order of the Controller in accordance with certifications made by the director.

The Controller shall deposit in this fund all federal funds as received under the provisions of Title XIX of the Social Security Act and all county funds received under this chapter.

All money in the Health Care Deposit Fund is hereby appropriated, for expenditure for the purposes specified in this chapter and Chapter 8 (commencing with Section 14200).

SEC. 855. Section 14161 of the Welfare and Institutions Code is amended to read:

14161. Carriers and providers of Medi-Cal benefits shall be required to utilize uniform accounting and cost-reporting systems as shall be developed and adopted by the department. If any other provision of law provides for uniform accounting and cost-reporting systems for hospitals, the department shall adopt such systems.

Carriers and providers of Medi-Cal benefits shall provide cost information to the department as is necessary in order to conduct studies to determine payment for services provided under this chapter.

Failure to comply with the provisions of this section shall be cause for suspension from participation under this chapter.

The department shall conduct such studies as necessary to determine payments for services provided under this chapter. The results of or progress reports concerning such studies shall be submitted to the Legislature by January 31 of each year.

The department shall submit an annual report to the Governor and the Legislature by January 31 of each year setting forth a comprehensive description of its activities and the operation and administration of the Medi-Cal program including, but not limited to, a fiscal accounting of expenditures, an evaluation of the relative cost and effectiveness of the various plans in accomplishing the desired goals, results of demonstration or pilot programs, and its recommendations as to legislation and other action as is necessary for carrying out the purposes of this chapter.

SEC. 856. Section 14180 of the Welfare and Institutions Code is amended to read:

14180. There is in the department the Medical Therapeutics and Drug Advisory Committee, hereinafter referred to as the committee.

SEC. 857. Section 14190 of the Welfare and Institutions Code is repealed.

SEC. 858. Section 14193 of the Welfare and Institutions Code is amended to read:

14193. The department shall transmit any data acquired by it regarding willful failure of a physician and surgeon to comply with the regulations of the department under this article to the Board of Medical Quality Assurance of the State of California.

SEC. 859. Section 14201 of the Welfare and Institutions Code is amended to read:

14201. The intent of the Legislature is to provide, to the extent feasible, through the provisions of this chapter and the necessarily related provisions of Chapter 7 (commencing with Section 14000) of this part, recipients of public assistance and medically indigent aged and other persons with the opportunity to enroll in prepaid health plans. It is further intended that this legislation is to benefit the people of the State of California by:

(a) Encouraging the development of more efficient delivery of health care to Medi-Cal recipients.

(b) Reducing the inflationary costs of health care.

(c) Improving the quality of medical services rendered to those eligible enrollees as defined in this chapter and Chapter 7 (commencing with Section 14000) of this part.

(d) Reducing administrative costs of operating the Medi-Cal Act by allowing prepaid health plans to assume substantial costs of administration and utilization controls that are now assumed by the State Department of Health Services.

SEC. 860. Section 14251 of the Welfare and Institutions Code is amended to read:

14251. "Prepaid health plan" is any carrier or association of providers of medical and health services who agree with the department to furnish directly or indirectly health services to Medi-Cal beneficiaries on a predetermined periodic rate basis. Such association includes, but is not limited to, a multispecialty group practice or a "foundation for medical care" program. The plan may not merely indemnify for the cost of services provided. The prepaid health plan must share in the risk of providing medical and health care services.

SEC. 861. Section 14259 of the Welfare and Institutions Code is amended to read:

14259. "Director" means the State Director of Health Services.

SEC. 862. Section 14260 of the Welfare and Institutions Code is amended to read:

14260. "Department" means the State Department of Health Services.

SEC. 863. Section 14300 of the Welfare and Institutions Code is amended to read:

14300. The department shall conduct a public hearing at least 30 days prior to the execution of an initial contract with a prepaid health plan and within 60 days prior to the renewal of a prepaid health plan contract to hear and receive evidence on the ability of the prepaid health plan to fulfill its responsibilities under the contract. The hearing shall be conducted in the county within which the prepaid health plan is located, or in the case of a prepaid health plan situated in more than one county, in the county where the largest number of Medi-Cal beneficiaries are enrolled in the plan.

Notice of the time, date, and place of the hearing shall be mailed to the following:

(a) The prepaid health plan applying for the contract or contract renewal.

(b) Medi-Cal beneficiaries enrolled in the prepaid health plan subject to the hearing.

(c) Any interested party who requests notification of public hearings conducted pursuant to this section.

The department shall make a finding of fact as to the ability of the prepaid health plan to comply with its previous and proposed contract obligations.

No contract shall be renewed unless the department makes a finding based upon the evidence presented at the public hearing that the prepaid health plan has fully complied with its contract obligations.

SEC. 864. Section 14309 of the Welfare and Institutions Code is amended to read:

14309. The department shall provide for a continuing study of the quality of care and services resulting from the operation of this chapter and for surveys and reports on prepaid health plans. With respect to such plans contracted for under this chapter, the department may contract with professional organizations for studies and reports of the experience of such plans as to the standards of care available to eligible persons, gross and net costs, administrative costs, benefits, utilization of benefits, the portion of actual personal expenditures of eligible persons for health care which are being met by prepaid benefits, and the methods of evaluating and improving the quality of, and controlling the costs of, health care provided under such contracts; provided, however, that this section shall not be construed to require any plan to provide accounting data or statistical data not required in the normal operation of the plan.

SEC. 865. Section 14310 of the Welfare and Institutions Code is amended to read:

14310. (a) In providing benefits under this chapter and Chapter 7 the director shall aggressively seek the development of alternative forms of financing and delivering health care services. The director shall, in carrying out the intent of this section, contract with institutional providers, counties, or other organizations to establish

pilot programs which demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each pilot program shall be for a specified duration not to exceed four years and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

(b) The director shall pursue the feasibility of establishing the following as pilot programs:

(1) A capitated, risk assuming contract with one or more regional fiscal intermediaries.

(2) A capitated, risk assuming contract with acute care hospitals within a county or region.

(3) A capitated, risk assuming contract with one or more organizations which provide payment to a specified class or classes of providers.

Persons eligible for services under Section 14005 may be assigned by the department to a prepaid health plan which affords any qualified Medi-Cal providers within the service area an opportunity to participate in the plan under reasonable restrictions approved by the department, provided, however, such persons shall be entitled to request and receive a Medi-Cal card if assignment to a plan does not meet with their satisfaction.

For purposes of this section, "risk assuming" means the pilot program contractor agrees to assume the risk of utilization of services or costs of services, or both.

(c) The department shall establish publicly operated health service delivery systems as pilot programs, to determine whether high-quality, comprehensive Medi-Cal benefits can be provided at a reasonable cost on a prepayment basis in a public service system. To the extent possible, the department shall establish programs in both rural and urban areas. The rural and urban areas designated for the programs shall be medically underserved to meet the health needs of the Medi-Cal population as determined by the director. The pilot programs shall have at least the following characteristics:

(1) The programs shall be publicly operated either by the department directly or through contract with other public entities.

(2) The programs may be regional in nature, extending beyond the boundaries of any one county.

(3) The programs shall enroll Medi-Cal recipients and be funded by the department on a prepayment capitation basis in accordance with capitation rates at or less than those paid by the department to prepaid health plans under this chapter for the same or similar care.

(4) The programs shall provide the full range of Medi-Cal services required of prepaid, health plans and shall meet all statutory requirements and all regulatory and contractual requirements established by the department for the program.

(5) The programs shall emphasize the innovative use of health personnel including midlevel medical, nursing and dental professionals in ambulatory settings.

(6) Medi-Cal recipients enrolling in a pilot program pursuant to

this subdivision shall be offered a choice of qualified primary care physicians employed by the program to be the recipients' designated primary care physicians.

(d) The director shall also consider programs which demonstrate an innovative and economical use of health personnel, including, but not limited to, programs approved pursuant to Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, which emphasize preventive care, which stress new methods for controlling utilization of services or review of provider competency, or which provide an incentive to beneficiaries to seek the most economical level of care. Such programs may provide benefits on the basis of class of recipient, class of benefit, geographical area, or any other reasonable classification, and may provide, to the extent permitted by federal law, benefits or services not included in Section 14132. The director may provide that the extent of benefit coverage may be limited to a fixed number of days, or amount, or duration of services.

(e) Except as provided in subdivisions (b) and (c), payment may be made to a pilot program on a capitated or prepayment basis, on a fee-for-service basis, or on some combination of both systems. For the purposes of this subdivision, "capitated" or "prepayment" means a prospective per capita rate of payment determined in accordance with Section 14301, and the term "Medi-Cal beneficiaries enrolled in a prepaid health plan" in Section 14301 includes all Medi-Cal beneficiaries subject to the terms of a pilot program contract under which individual enrollment is not required.

(f) The director shall call a public hearing pursuant to Section 14300 prior to entering into or renewing a pilot program.

(g) The director shall submit to the Legislature a written report detailing the objectives of all pilot programs, the department's analysis of their effectiveness, efficiency, and quality, and other information regarding such pilot programs not later than January 30 of each year. At the conclusion of a pilot program the director shall report to the Legislature concerning the desirability and feasibility of implementing the pilot program on a statewide basis.

SEC. 866. Section 14312 of the Welfare and Institutions Code is amended to read:

14312. The director shall adopt all necessary rules and regulations to carry out the provisions of this chapter. In adopting such rules and regulations, the director shall be guided by the needs of eligible persons as well as prevailing practices in the delivery of health care.

All regulations heretofore adopted by the State Department of Health or its predecessors pursuant to this chapter, and which are in effect on the effective date of the amendment of this section enacted at the 1977 portion of the 1977–78 Regular Session of the Legislature, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

SEC. 867. Section 14450 of the Welfare and Institutions Code is amended to read:

14450. No contract between the department and a prepaid health plan shall be approved or renewed unless the providers and the facilities of the prepaid health plan meet the Medi-Cal program standards for participation as established by the director. In addition, a prepaid health plan shall meet the following requirements:

(a) Laboratory services shall be provided only in laboratories which are approved by the department, except such laboratories which are exempt from such approval under Section 1241 of the Business and Professions Code, and which participate in a performance testing program approved by the department, or meet the conditions of participation under Title XVIII of the Social Security Act.

(b) All institutions including, but not limited to, clinics, hospitals, and skilled nursing facilities, shall be licensed by the department, if such licensure is required by law. When appropriate, all medical personnel of the prepaid health plan shall be licensed by their respective licensing boards.

(c) The prepaid health plan shall demonstrate to the department that it has adequate financial resources, physical facilities, administrative abilities, and soundness of program design, to carry out its contractual obligations. For the purpose of this section, "adequate financial resources," as determined by the department, shall not be less than the minimum tangible net equity required of health care service plans pursuant to Section 1375 of the Health and Safety Code.

(d) The prepaid health plan shall provide not fewer than five physicians who represent the following specialities of medicine: pediatrics, internal medicine, general surgery, and obstetrics-gynecology; provided, however, the department may determine that in given communities that it is not feasible or medically appropriate to provide all of these specialities. Such determination shall be specifically stated in the contract between the prepaid health plan and the department.

(e) The prepaid health plan shall not enroll more than 1,600 persons per full-time equivalent primary care physician and 1,200 persons per full-time equivalent physician. Such ratios may be adjusted by the department as appropriate to the medical needs of the Medi-Cal population proposed to be served by the plan or if appropriate utilization is made of allied health manpower. Such adjustment shall be specifically stated in the contract between the prepaid health plan and the department.

Each contract entered into by the department shall include identification of all primary care physicians, and all other physicians by their speciality designation. The prepaid health plan shall provide to the department the numbers, qualifications, and responsibilities of all personnel providing health care services.

No enrollment shall be permitted on the basis of part-time primary care physicians except for medical care foundations, or hospital or health care service plans which have an enrollment of 25,000 or

more, 50 percent of which are non-Medi-Cal recipients, and who have a board of directors upon which at least one-third of its members are consumers.

(f) The prepaid health plan shall furnish services in such a manner as to provide continuity of care and, when services are furnished by different providers, referral of patients to such services at such times as may be medically appropriate.

(g) A primary care physician shall be made available to each enrollee to supervise and coordinate the delivery of health care to the enrollee. If the enrollee becomes dissatisfied with his chosen primary care physician, the enrollee shall be able to choose another primary care physician.

(h) All services shall be readily available at reasonable times to all enrollees. To the maximum extent feasible, the prepaid health plan shall make all services readily accessible to all enrollees by decentralizing the services to be provided or by providing transportation to the prepaid health plan facilities if adequate public transportation is not available.

(i) The prepaid health plan shall employ allied health personnel for furnishing of services to the extent that it is reasonable and consistent with good medical practice.

(j) A prepaid health plan servicing a substantial patient population of a particular racial or ethnic group, or whose primary language is other than English, shall, to the extent feasible, employ staff of that respective racial, ethnic, or linguistic group in sufficient numbers in the prepaid health plan to service the enrollees at all times.

(k) The prepaid health plan shall have the organizational and administrative capacity to provide services under the provisions of this chapter. The prepaid health plan shall demonstrate to the department that medical decisions are rendered by qualified medical personnel, unhindered by fiscal or administrative management.

(*l*) Each prepaid health plan shall establish a grievance procedure under which enrollees may submit their grievances. Such procedure shall be approved by the department prior to the approval of the contract. The department shall establish standards for such procedures to insure adequate consideration and rectification of enrollee grievances. A prepaid health plan shall make a finding of fact in the case of each grievance processed, a copy of which shall be transmitted to the enrollee. If the enrollee has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 of this division shall be available to resolve all grievances regarding care and administration by the prepaid health plan. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the prepaid health plan.

SEC. 868. Section 14452 of the Welfare and Institutions Code is amended to read:

14452. All subcontracts shall be entered into pursuant to regulations established by the department. All subcontracts shall be in writing, a copy of which shall be transmitted to the department for approval prior to its taking effect.

Each subcontract submitted to the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the prepaid health plan; provided, however, that these provisions shall not apply to a provider who is employed or salaried by the prepaid health plan. All subcontracts to provide health care benefits, including emergency services, shall include specification of the time and days reserved for services to be provided to enrollees and specification of the service to be provided. All subcontracts for inpatient services shall include specification of the number of beds to be available for enrollees. When the prepaid health plan contracts to provide any of the basic scope of health care benefits through subcontractors, the subcontractors shall meet all of the qualifications required under Section 14450 as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records, pertaining to the goods or services furnished under the terms of the subcontract, available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in California as the department shall designate.

Subcontracts between a prepaid health plan and the subcontractor shall be public records on file with the department. The names of the officers and stockholders of the subcontractor shall be public records on file with the department.

SEC. 869. Section 14458 of the Welfare and Insitutions Code is amended to read:

14458. The prepaid health plan shall establish procedures for continuously reviewing the quality of care, performance of medical personnel, the utilization of services and facilities, and costs. Information derived from such review shall be made available to the department.

SEC. 870. Section 14476 of the Welfare and Institutions Code is amended to read:

14476. For purposes of this article, "state officer or employee" means a member of the Legislature, a secretary of a state agency, and those members of the secretary's staff who hold policymaking positions, those members of the Governor's staff who hold policymaking positions, an administrative aide or committee consultant of the Legislature; and includes the appointive or civil service employee of the highest class or grade in each department, system, program, section, or other administrative subdivision of the department as defined in regulations adopted by the department.

SEC. 871. Section 14477 of the Welfare and Institutions Code is amended to read:

14477. For the purposes of this article, "state employee" subject to the provisions of Section 14475 includes any employee in the department who has a direct responsibility for the negotiation, development, or management of a prepaid health plan contracted under the provisions of this chapter. The director shall publish regulations determining the class of employees covered by this section.

SEC. 872. Section 14500 of the Welfare and Institutions Code is amended to read:

14500. An Office of Family Planning shall be established within the State Department of Health Services. The Office of Family Planning shall be under the control of an executive officer who shall be known as the Coordinator of the Office of Family Planning. The coordinator shall be appointed by the State Director of Health Services and shall be an individual with training and experience in family planning.

SEC. 873. Section 15153.5 of the Welfare and Institutions Code is amended to read:

15153.5. Notwithstanding any provision of this article to the contrary, state and federal funds normally due counties for aid payments in behalf of appropriate participants under work incentive programs administered by the Employment Development Department, and the families of such participants, shall be transferred by the Controller to the Employment Development Department for use in administering the work incentive program. In addition, an amount of money not in excess of the county share of such aid payments shall be determined and deducted from advances of state and federal funds due counties pursuant to Section 15153.

The State Department of Social Services and the Employment Development Department, subject to the approval of the Director of Finance and the Controller, shall establish procedures and methods for the maintenance of information and accounts and the preparation of reports essential to meet federal requirements, and to provide the Controller with financial statements to support the required transfer of funds.

SEC. 874. Section 15156 of the Welfare and Institutions Code is repealed.

SEC. 875. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Support Enforcement Incentive Fund, from which the department shall make payments to each county to be deposited in the county general fund which shall be a combination of state and federal funds equivalent to: (a) effective October 1, 1975, through June 30, 1976, 33.75 percent of that portion of the amounts received from or collected from noncustodial parents which is used to reduce or repay aid paid pursuant to this chapter, and which qualify for federal incentive funds (b) effective July 1, 1976, 27.75 percent of the

amounts received from or collected from noncustodial parents which is used to reduce or repay aid payment pursuant to this chapter and which qualify for federal incentive funds.

Where more than one county has participated in such enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in such enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

SEC. 876. Section 15200.2 of the Welfare and Institutions Code is amended to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Interstate Collection Incentive Fund, from which the department shall make payments to California counties and other states which shall be a combination of state and federal funds equivalent to: (a) effective October 1, 1975, through June 30, 1976, 33.75 percent of that portion of the amounts received from or collected from noncustodial parents residing outside California which is used to reduce or repay aid paid pursuant to this chapter and qualify for federal incentive funds (b) effective July 1, 1976, 27.75 percent of that portion of the amounts received from or collected from noncustodial parents residing outside California which is used to reduce or repay aid paid pursuant to this chapter and which qualify for federal incentive funds. The department shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the noncustodial parent support payment.

Where a county makes a collection for another state, the department shall forward any incentive payment received from such state to the county making the collection from the noncustodial parent.

SEC. 877. Section 15510 of the Welfare and Institutions Code is amended to read:

15510. The director shall administer the provisions of this chapter and shall adopt such rules and regulations as are necessary to carry out the provisions of this chapter.

SEC. 878. Section 16100 of the Welfare and Institutions Code is amended to read:

16100. Any county may apply for, and the department may issue pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code to any county agency designated by the county making the application, a license to perform the home-finding and placement functions, to investigate, examine, and make reports upon petitions for adoption filed in the superior court, to act as a placement agency in the placement of children for adoption, to accept relinquishments for adoption, and to perform such other functions in connection with adoption as the department deems necessary, or to do any of them.

In order to extend the services of county adoption agencies to the maximum number of counties practicable within the limits of funds appropriated therefor, the department may license a county adoption agency to operate in such other counties in the general area of the agency as it deems conducive to the effective and efficient administration of the adoption program.

A license issued to a county agency pursuant to this section constitutes the holder thereof a "county adoption agency" and the holder shall be deemed to be an "organization" within the meaning of this code and of Chapter 2 (commencing with Section 221), Title 2, Part 3, Division 1 of the Civil Code.

SEC. 879. Section 16141 of the Welfare and Institutions Code is amended to read:

16141. Notwithstanding any other provision of law, the department shall complete any investigation requested with respect to a person who is a resident of California and who wishes to adopt a child from a foreign country within the following periods of time:

(a) For a "priority child," as that term is defined by international child placing agencies, the entire process, including investigatory procedures and submission of its report as to the suitability of the petitioner's home, shall be completed within six months from the date the request is made.

(b) In all other cases, the entire process, including investigatory procedures and submission of its report as to the suitability of the petitioner's home, shall be completed within 12 months of the date the request is made.

(c) In any case, any group meeting that may be required by the department with respect to its investigation shall take place within one month of the date the request is made.

SEC. 879.5. Chapter 4 (commencing with Section 16300) of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 880. Section 16500 of the Welfare and Institutions Code is amended to read:

16500. The state, through the department and county welfare departments, shall establish and support a public system of statewide child protective services to be developed as rapidly as possible and to be available in each county of the state. All counties or combinations of counties shall establish specialized units of protective services for children.

SEC. 881. Section 16503 of the Welfare and Institutions Code is repealed.

SEC. 882. Section 16552 of the Welfare and Institutions Code is amended to read:

16552. (a) A "voluntary placement agreement" is a binding written agreement between the county welfare department of a demonstration county and the parents or guardians of a minor which specifies the legal status of the minor and the rights and obligations of the parents or guardians.

(b) Voluntary placement shall not affect a parent or guardian's

rights:

(1) To consent to medical care for the minor; or

(2) To reasonable visitation privileges; or

(3) To consultation with regard to the type of out-of-home placement, location of the placement, and any change in placement; or

(4) To consent before the minor is taken out of the state.

(c) The parents or guardians shall have the right to have the minor returned to their physical custody within 14 days after written notice has been given to the county welfare department of a demonstration county. Notwithstanding the foregoing, the parents or guardians shall have the right to have the minor returned to their physical custody within 24 hours if at any time during the first three days after placement of the minor they notify the county welfare department that they wish to have the minor returned to their physical custody within such 24-hour period.

(d) In addition to other reasonable conditions for voluntary placement imposed by the county welfare department of a demonstration county to protect the interests of the minor, the parents or guardians shall agree pursuant to the voluntary placement agreement to do the following:

(1) Except as provided in subdivision (c), to give 14 days written notice for termination of the placement agreement,

(2) To contribute an amount specified pursuant to guidelines established by the State Department of Social Services for support of the minor, or, if eligible, apply for public assistance or other benefits which will contribute toward the minor's board and maintenance,

(3) To inform the county welfare department of a demonstration county of any change in their address or whereabouts,

(4) To meet with the social worker on a prearranged schedule to carry out agreed-upon casework planning for return of the minor to their physical custody,

(5) To meet with the social worker to discuss what services would be appropriate to help reunify the family.

(e) The voluntary placement agreement shall state that:

(1) Such placement shall not exceed six months, except as provided for in Section 16557; and

(2) The minor may remain out of their physical custody for a longer period only pursuant to Sections 300, 302, and 361.5 and if a petition is filed under such sections, the parents or guardians may be entitled to counsel appointed by the court if they are unable to afford counsel; and

(3) The minor may be declared permanently free from their custody and control pursuant to Section 232 of the Civil Code if the minor remains out of their physical custody for 18 consecutive months and if an action is brought under Section 2.5 of the act which enacted this section, the parents or guardians shall have the right to counsel appointed by the court if they are unable to afford counsel.

The State Department of Social Services, in consultation with

county welfare departments, shall develop a form for voluntary placement agreements pursuant to the conditions set forth in this chapter to be used by all counties which accept such placements.

SEC. 883. Section 16557 of the Welfare and Institutions Code is amended to read:

16557. Notwithstanding the six-month time limitation set forth in Section 16556, voluntary placement of the minor may be extended for a period not to exceed six months, provided, that:

(a) The county administrative review board of a demonstration county which meets the requirements of this section shall hold an administrative review within 30 days prior to the expiration of the initial six-month period;

(b) The board finds that it is probable that the minor will be reunited with his parents or guardians prior to the end of the extension period;

(c) The parents or guardians sign a voluntary placement agreement for the extension period; and

(d) The board makes written findings concerning what services have been offered to the parents or guardians, the effectiveness of such services, the need for further assistance, whether the parents or guardians have been afforded an opportunity and encouraged to have a program of regular visitation with the minor, and the number and duration of such visits.

The county administrative review board shall be comprised of at least three persons, not more than two of whom may be employees of the county welfare department.

The minor's parents or guardians shall be given reasonable notice of the time of the review and shall have the right to be present.

The board may order that the county welfare department apply for a petition pursuant to Section 332.5 and file such petition with the juvenile court to have the minor declared a dependent of the juvenile court under Section 300 or 302.

The State Department of Social Services shall establish uniform procedures to be followed by each county for such administrative reviews.

SEC. 884. Chapter 6 (commencing with Section 16575) of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 885. Section 18200.1 of the Welfare and Institutions Code is repealed.

SEC. 886. Section 18276 of the Welfare and Institutions Code is amended to read:

18276. The department, upon the advice of the review committee established pursuant to Section 18279, shall contract with the county selected pursuant to Section 18279 for the administration and operation of a child sexual abuse prevention demonstration center.

SEC. 887. Section 18279 of the Welfare and Institutions Code is amended to read:

18279. (a) The director shall appoint a review committee of

seven members, one to represent the department, two physicians and surgeons, two persons with an extensive background in social or behavioral science, one representing law enforcement, and one member to represent the public. The members of the review committee shall serve for a two-year period and may be reappointed. They shall serve without compensation, but shall receive their necessary travel expenses.

(b) The committee shall establish standards for the expenditure of state funds which are provided for the establishment and support of the center to assure the availability of specialized personnel, resources, and equipment necessary to enable the center to carry out the purposes of this chapter. The director shall select the county which shall receive state funds to establish and continue such center from a list of eligible counties which shall be submitted to him by the review committee. In making such selection the director and the review committee shall give priority to such counties as may have existing programs relating to the prevention of the sexual abuse of children. Upon establishment of such center the review committee shall periodically appraise its performance and recommend to the director whether it shall receive continuation grants.

SEC. 888. Section 18376 of the Welfare and Institutions Code is amended to read:

18376. The State Department of Health Services may authorize the payment of state funds to defray in part the cost of projects or the continuation of projects under which the city or county health agency provides a program of scheduled visits by public health nurses to senior citizen housing and center facilities for health consultant services.

The state share of any such project shall not exceed 50 percent of funds expended in connection with that project. City or county matching funds may be in the form of cash, facilities or services on the basis of a local project plan submitted to and approved by the department.

SEC. 889. Section 18377 of the Welfare and Institutions Code is amended to read:

18377. The State Department of Health Services shall develop and establish guidelines for submission and approval of the city or county project plans. The department shall give priority to those cities and counties which have demonstrated the ability to provide public health nursing services to the aged.

SEC. 890. Section 18454 of the Welfare and Institutions Code is amended to read:

18454. "Department" means the State Department of Social Services.

SEC. 891. Section 18951 of the Welfare and Institutions Code, as added by Chapter 309 of the Statutes of 1974, is amended to read:

18951. As used in this chapter:

(a) "Child" means an individual under the age of 18.

(b) "Child services" means services for or on behalf of children

which shall include, but not be limited to, the following:

(1) Protective services.

(2) Caretaker services.

(3) Day care services which include dropoff care.

(4) Homemaker services or family aides.

(5) Counseling services.

(c) "Adult services" means services for or on behalf of a parent of a child which shall include, but not be limited to, the following:

(1) Access to voluntary placement, long or short term.

(2) Counseling services before and after a crisis.

(3) Homemaker services or family aides.

(d) "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to:

(1) Psychiatrists, psychologists or other trained counseling personnel.

(2) Police officers or other law enforcement agents.

(3) Medical personnel with sufficient training to provide health services.

(4) Social workers with experience or training in child abuse prevention.

(e) "Child abuse" as used in this chapter means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development or capacity for independence.

(f) "Parent" means any person who exercises care, custody and control of the child as established by law.

SEC. 892. Section 18952 of the Welfare and Institutions Code, as added by Chapter 309 of the Statutes of 1974, is amended to read:

18952. (a) There is hereby established in the State Department of Social Services an Office of Child Abuse Prevention which shall be administered by a coordinator appointed by the Director of Social Services. The Coordinator of the Office of Child Abuse Prevention shall be a professional with recognized training and experience in

child abuse prevention.

SEC. 893. Section 19300 of the Welfare and Institutions Code is amended to read:

19300. The department and the State Department of Social Services shall jointly develop plans for the orderly processing of cases referred to the department for a determination of feasibility and planning for vocational rehabilitation.

SEC. 894. Division 11 (commencing with Section 19900) of the Welfare and Institutions Code is repealed.

SEC. 895. It is the intent of the Legislature that the Governor prepare and submit to the Legislature by January 31, 1979, pursuant to the provisions of Article 7.5 (commencing with Section 12080), Chapter 1, Part 2, Division 3, Title 2 of the Government Code, an executive reorganization plan which would remove the Department of Corrections and the Youth Authority from the Health and Welfare Agency, operative on or before July 1, 1979.

SEC. 896. Any section of any act enacted by the Legislature during the 1977 portion of the 1977–78 Regular Session, which takes effect on or before January 1, 1978, and which amends, amends and renumbers, adds, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether such act is enacted prior or subsequent to this act.

SEC. 897. This act, except for Section 104 shall become operative on July 1, 1978. Section 104 shall become operative on January 1, 1978.

CHAPTER 1253

An act to amend and renumber the heading of Chapter 2 (commencing with Section 34400), Chapter 3 (commencing with Section 34450), Chapter 4 (commencing with Section 34500), and Chapter 7 (commencing with Section 34851) of Part 1 of Division 2 of Title 4 of, to add Part 2 (commencing with Section 35000) to Division 2 of Title 4 of, to repeal Chapter 1 (commencing with Section 34300), Chapter 5 (commencing with Section 34600), and Chapter 6 (commencing with Section 34700) of Part 1 of Division 2 of Title 4 of, and to repeal Part 2 (commencing with Section 35000) of Division 2 of Title 4 of, the Government Code, relating to cities.

[Approved by Governor October 1, 1977 Filed with Secretary of State October 1, 1977]

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

SECTION 1. Chapter 1 (commencing with Section 34300) of Part 1 of Division 2 of Title 4 of the Government Code is repealed.

SEC. 2. The heading of Chapter 2 (commencing with Section 34400) of Part 1 of Division 2 of Title 4 of the Government Code is amended and renumbered to read:

CHAPTER 1. SPECIAL CHARTER CITIES

SEC. 3. The heading of Chapter 3 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code is amended and renumbered to read:

CHAPTER 2. CITY CHARTERS

SEC. 4. The heading of Chapter 4 (commencing with Section 34500) of Part 1 of Division 2 of Title 4 of the Government Code is amended and renumbered to read:

CHAPTER 3. CORPORATE Name

SEC. 5. Chapter 5 (commencing with Section 34600) of Part 1 of Division 2 of Title 4 of the Government Code is repealed.

SEC. 6. Chapter 6 (commencing with Section 34700) of Part 1 of Division 2 of Title 4 of the Government Code is repealed.

SEC. 7. Chapter 7 (commencing with Section 34851) of Part 1 of Division 2 of Title 4 of the Government Code is amended and renumbered to read:

CHAPTER 4. ALTERNATIVE FORMS OF GOVERNMENT

SEC. 8. Part 2 (commencing with Section 35000) of Division 2 of Title 4 of the Government Code is repealed.

SEC. 9. Part 2 (commencing with Section 35000), is added to Division 2 of Title 4 of the Government Code, to read:

PART 2. MUNICIPAL ORGANIZATION ACT

CHAPTER 1. GENERAL PROVISIONS

Article 1. Introductory Provisions

35000. The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of city boundaries is an important factor in promoting the orderly development of urban areas. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and expansion of cities.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the

type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single governmental agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities.

35001. This part shall be known and may be cited as the Municipal Organization Act of 1977.

35002. Except as provided in Division 1 (commencing with Section 56000) of Title 6, this part shall provide the sole and exclusive authority and procedure for the initiation, conduct, and completion of city incorporations, municipal reorganizations, or changes of organization.

35003. Notwithstanding the provisions of Section 35002, this part shall not apply to any proceedings for the incorporation of a city, or for a change of organization of a city, which shall have been accepted for filing by the executive officer pursuant to Section 54791 prior to the effective date of this part. Any such pending proceeding may be continued and completed under and in accordance with the provisions of law existing prior to this part.

35004. If an action or proceeding is brought attacking the regularity or validity of proceedings completed pursuant to this part, such territory shall be deemed to be within the jurisdiction of the local agency which had jurisdiction over the territory prior to the completion of proceedings pursuant to this part, and the ordinances and regulations of such local agency shall remain in effect, and such local agency shall render services to such territory in the same manner it did prior to completion of proceedings pursuant to this part, until the final disposition of such action or proceedings and thereafter if it is determined that the proceedings taken pursuant to this part were invalid.

35005. An action to determine the validity of any city incorporation, municipal reorganization, or any city change of organization completed pursuant to this part shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

35006. This part shall be liberally construed to effectuate its purposes. No city incorporation, municipal reorganization or change of organization ordered under this part shall be invalidated by any defect, error, irregularity, or omission in any act, determination or procedure which does not adversely and substantially affect the right of any person, city, county, district, the state or any agency or subdivision of the state. All determinations made by a commission or by any legislative body under and pursuant to the provisions of this

part shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

35007. If any provision of this part or the application thereof in any circumstance or to any person, city, county, district, the state, or any agency or subdivision of the state is held invalid, such invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application thereof, and to this end the provisions of this part are severable.

35008. In this part, provisions governing the time within which an official, a conducting authority, or the commission is to act shall in all instances, except for notice requirements, be deemed directory rather than mandatory.

35009. No tidelands or submerged lands which are owned by the state or by its grantees in trust shall be incorporated into, or annexed to, a city except such lands as may be approved by the State Lands Commission.

If any such tidelands or submerged lands shall be included within the boundaries of any territory proposed to be incorporated into, or annexed to, a city, a description of such boundaries, together with a map showing such boundaries, shall be filed with the State Lands Commission by the proponents of the incorporation or annexation. Such filing shall be made prior to filing an application or taking any action pursuant to Chapter 2 (commencing with Section 35100) of this part.

The State Lands Commission shall approve or disapprove all portions of the boundaries located upon such tidelands or submerged lands. In making such determination it shall, where feasible and appropriate, require such extensions of land boundaries of the city or proposed city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city or proposed city; provided, that in the interest of insuring an orderly and equitable pattern of offshore boundaries, it may establish such other angle and such other courses for each such offshore boundary as it may deem necessary considering any irregularity of the shoreline, other geographical features, the effect of incorporation or annexation of such offshore or submerged lands on the uplands of the city, or proposed city, and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

Within 45 days after the filing of the boundary description and map with the State Lands Commission, it shall make a determination of the proper offshore or submerged lands boundaries. Such determination shall be final and conclusive. Failure to report within this time shall be deemed approval of the proposed offshore or submerged lands boundaries.

The State Lands Commission shall report its determination to the executive officer of the local agency formation commission and to such local agency or person or persons, if any, as shall have filed such boundary description and map. Thereafter, filings and action may be

taken pursuant to Chapter 2 (commencing with Section 35100) of this part.

The local agency formation commission may review and make determinations as to all portions of the boundaries, other than such offshore or submerged lands boundaries.

For purposes of this section, submerged lands include, but are not limited to, lands underlying navigable waters which are in sovereign ownership of the state irrespective of whether or not such waters are subject to tidal influences.

35010. Unless otherwise determined by the commission pursuant to subdivision (e) of Section 35150, territory shall not be incorporated into, or annexed to, a city pursuant to this part if, as a result of such incorporation or annexation, unincorporated territory is completely surrounded by such city or by territory of such city on one or more sides and the Pacific Ocean on the remaining sides.

35011. Unless otherwise provided in this part, territory may not be annexed to a city unless it is located in the same county and is contiguous to the city at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part.

35012. Notwithstanding the provisions of Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part. If, after the completion of the annexation, the city sells such territory or any part thereof, all such territory which is no longer owned by the city shall cease to be a part of the city.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although such territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section to the contrary, a city which annexes territory pursuant to this section may annex additional territory which is owned by the United States government or the State of California and which is contiguous to such first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 100 acres in area. If after the completion of such subsequent annexation, the city sells all or any part thereof of such first annexed territory, the subsequently annexed territory shall cease to be part of the city if it is no longer contiguous to territory owned by the city.

If territory annexed to a city pursuant to this section becomes contiguous to such city, the limitations imposed by this section shall cease to apply.

35013. If authorized by the commission pursuant to subdivision (f) of Section 35150, the conducting authority may, without an election,

order annexation of territory which:

(a) Does not exceed 100 acres in area and such 100 acres constitutes the entire island.

(b) (1) Is surrounded or substantially surrounded by the city to which annexation is proposed or by such city and a county boundary or the Pacific Ocean; or

(2) Is surrounded by a city and adjacent cities.

(c) The commission finds is substantially developed or developing;

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

(e) The commission shall make a finding that such territory to be annexed will benefit from the annexation or is receiving benefits from the annexing city.

35014. The authority to initiate, conduct, and complete any proceeding pursuant to Section 35013 shall not apply to any territory which, after the effective date of this part, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to Section 35013 shall expire three years after the effective date of this part.

Article 2. Definitions

35020. Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part. The definition of a word applies to any of such word's variants.

35021. "Affected city" means each city:

(a) Which contains territory for which a change of organization is proposed or ordered either singularly or as part of a municipal reorganization; or

(b) Which would contain such territory as a result of proceedings for a change of organization or municipal reorganization taken pursuant to this part.

35022. "Affected county" means the county which contains any territory for which an incorporation, a change of organization, or a municipal reorganization is proposed or ordered.

35023. "Affected district" means a special district, within the meaning of Section 56039, which contains any territory for which an incorporation, municipal reorganization or a change of organization is proposed or ordered.

35024. "Affected territory" means the territory described and contained in a proposal for incorporation, municipal reorganization or change of organization.

35025. "Annexation" means the annexation, inclusion, attachment, or addition of territory to a city.

35026 "Board of supervisors" or "board" means the board of supervisors or legislative body of a county.

35027. "Change of organization of a city" means an annexation or detachment of territory to, or from, a city, the disincorporation or consolidation of any city or cities.

35028. "City council" or "council" means the city council or legislative body of a city.

35029. "Clerk" means the clerk of a city or county or legislative body thereof. Where the office of county clerk is separate from the office of registrar of voters, "clerk" means the registrar of voters with respect to all duties pertaining to the conduct of elections and the county clerk with respect to all other duties.

35030. "Commission" means a local agency formation commission created pursuant to Chapter 6.6 (commencing with Section 54773), Part 1, Division 2, Title 5.

35031. "Conducting authority" means the legislative body of an affected city or county which is authorized by the commission to conduct proceedings for incorporation, change of organization, or a municipal reorganization. Subject to compliance with any commission determination, the conducting authority for proceedings shall be determined as follows:

(a) A city whose boundaries would be changed as the result of a proposed annexation, detachment, or disincorporation shall be the conducting authority and proceedings for any such annexation, detachment, or disincorporation shall be initiated and conducted by the legislative body of such city.

(b) The legislative body of the city with the largest population shall be the conducting authority and shall initiate and conduct proceedings for the consolidation of two or more cities.

(c) The board of supervisors of the county in which the affected territory is located shall be the conducting authority and shall initiate and conduct proceedings for the incorporation of a new city, for a municipal reorganization which includes the incorporation of a new city and for the annexation of territory specified in subdivision (f) of Section 35150.

(d) The commission shall determine whether the legislative body of an affected city or the affected county shall be the conducting authority for municipal reorganization proceedings which do not include the incorporation of a new city.

35032. "Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city, all such cities having been incorporated pursuant to law.

35033. "Contiguous" means:

(a) In the case of annexation, territory adjacent to or adjoining territory within the city to which annexation is proposed.

(b) In the case of consolidation, territory of a city or cities which is adjacent to or adjoining the territory of the consolidating city or to the territory of another city which is contiguous to the consolidating city and to be consolidated with such consolidating city.

Territory shall not be deemed contiguous as that word is used in this part if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide, such width to be exclusive of highways.

35034. "Detachment" means the detachment, deannexation, exclusion, deletion, or removal from a city of any portion of the territory of such city.

35035. "Disincorporation" means the disincorporation, dissolution, extinguishment and termination of the existence of a city and the cessation of its corporate powers.

35036. "Executive officer" means the executive officer appointed by a local agency formation commission, or if none has been appointed, then the county officer acting as the executive officer for the commission.

35037. "Incorporation" means the incorporation, formation, creation, and establishment of a city with corporate powers as provided by law.

35038. "Inhabited territory" means territory within which there reside 12 or more registered voters at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part. All other territory shall be deemed "uninhabited" as the word "uninhabited" is used in this part.

35039. "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll; where such person is no longer the owner, then the person entitled to be shown as owner of the land on the next equalized assessment roll; where land is subject to a recorded written agreement of sale, any person shown therein as purchaser; and, any public agency owning land.

35040. "Last equalized assessment roll" means the last equalized assessment roll or book used by a city or county for the annual levy and collection of any taxes or assessments imposed by such city or county.

35041. "Legislative body" means the legislative body or governing board of a city, special district, or county.

35042. "Municipal reorganization" means either:

(a) One or more change of organization of a city proposed for each of two or more cities, and may include the incorporation of a new city; or

(b) Two or more changes of organization proposed for any single city.

35043. "Next equalized assessment roll" means the next assessment roll or book to be equalized and used by a city or county for the purpose of the annual levy and collection of any taxes or assessments imposed by such city or county.

35044. "Notice" means any ordinance, resolution, order, notice or other matter authorized or required by this part to be published, posted or mailed.

35045. "Preliminary proceedings" means proceedings which are taken by the commission pursuant to Chapter 2 (commencing with Section 35100) of this part.

35046. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, which: (i) has not been developed for a use other than an agricultural use and (ii) meets any

of the following qualifications:

(a) Land which qualifies for rating as class I or class II in the Soil Conservation Service land use capability classification;

(b) Land which qualifies for rating 80 through 100 Storie Index Rating;

(c) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935;

(d) Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre;

(e) Land which has returned from the production of unprocessed agricultural plant products in annual gross value of not less than two hundred dollars ($200) per acre for three of the previous five years.

(f) Land which is used to maintain livestock for commercial purposes.

35047. "Proceeding," "proceeding for incorporation," "proceeding for change of organization of a city" or "proceedings for municipal reorganization" means proceedings taken by the conducting authority pursuant to Chapter 3 (commencing with Section 35200) of this part.

35048. "Proposal" means a request or statement of intention made by petition or by resolution of application of a legislative body proposing proceedings for the incorporation of a city, municipal reorganization, or the change of organization of a city described therein.

35049. "Public agency" means the state or any state agency, board or commission, any city, county, city and county, special district, or other political subdivision, and any agency, board, or commission thereof.

35050. "Registered voter" means any elector registered under, and pursuant to, the Elections Code.

Article 3. Notice

35055. Notice required to be given pursuant to this part shall be given in the same manner and form prescribed in Chapter 3 (commencing with Section 56080) of Part 1 of Division 1 of Title 6 of this code.

Article 4. Elections

35060. Except as otherwise provided in this part, elections required to be held pursuant to this part shall be called, held and conducted

in accordance with the resident voter district provisions of Chapter 4 (commencing with Section 56100) of Part 1 of Division 1 of Title 6 of this code. As used in such chapter, "change of organization" means "change of organization of a city;" "reorganization" means "municipal reorganization;" "district" means "city;" "board of directors" and "board of supervisors" means the legislative body of the conducting authority; and "conducting district" means "conducting authority" as such terms are defined in this part.

35061. Any resolution adopted pursuant to this part which orders the incorporation of a city, a change of organization or a municipal reorganization subject to confirmation by the voters upon the question thereof shall:

(a) Call, provide for, and give notice of a special election or elections upon such question;

(b) Designate the affected territory within which such special election or elections shall be held;

(c) Fix a date of election;

(d) Provide for the question or questions to be submitted to the voters;

(e) Designate precincts and polling places;

(f) Specify any terms or conditions provided for in the incorporation or change of organization;

(g) State the vote required for confirmation of incorporation or change of organization; and

(h) Contain such other matters as may be necessary to call, provide for, and give notice of such special election or elections and to provide for the conduct thereof and the canvass of returns thereof.

35062. The question or questions to be submitted at any special election or elections called pursuant to this part shall be in substantially the following form:

(a) For an incorporation:

"Shall the order adopted on _____, 19__ by the Board of Supervisors of _____ County ordering the incorporation of the territory described in said order and designated therein as

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(insert the distinct short form designation theretofore assigned by the commission)

be confirmed and a maximum property tax for such new city of _____ be approved?"

(b) For an annexation:

"Shall the order adopted on _____, 19__ by the

(insert conducting authority)

ordering the annexation to said city of the territory described in said order and designated as

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(insert the short form designation theretofore assigned by the commission)

be confirmed?"

(c) For a detachment:

"Shall the order adopted on _____, 19__ by the

_____

(insert conducting authority)

ordering the detachment from said city of the territory described in said order and designated therein as

_____

(insert the short form designation theretofore assigned by the commission)

be confirmed?"

(d) For a consolidation:

"Shall the order adopted on _____, 19__ by the

_____

(insert conducting authority)

of the City of _____

(insert name of city)

ordering the consolidation of the cities of

_____

(insert names of all cities ordered consolidated)

into a single city known as the _____ be confirmed?"

(e) For a disincorporation:

"Shall the order adopted on _____, 19__ by the City Council of the City of _____ ordering the disincorporation of the City of _____ be confirmed?"

(f) For a municipal reorganization:

"Shall the order adopted on _____, 19__, by the

_____

(insert conducting authority)

ordering a municipal reorganization effecting the city(s) of

_____

(insert names of all affected cities)

and providing for

_____

(insert list of all changes of organization or new cities proposed to be incorporated)

be confirmed?"

35063. On the ballot opposite each question and to its right, the words "Yes" and "No" shall be printed on separate lines with voting squares.

35064. Where a special election is called pursuant to this part, each registered voter entitled to vote as a result of residing within the territory within which said election is called shall be entitled to one ballot and one vote.

35065. Within five days after a special election is called pursuant to this part, the conducting authority which has called the election shall transmit, by registered mail, a written notification of the election call to the executive officer of the local agency formation commission of the county in which the affected territory is located. Such written notice shall include a description of the boundaries of

the affected territory as assigned by the commission. Written notice required by this section may be made in the form of a certified copy of the resolution adopted by the legislative body calling the election.

The executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 400 words in length in addition to a general description of the boundaries of the territory affected.

The local agency formation commission shall approve or modify the analysis and submit it to the clerk of the legislative body conducting the election not less than 54 days prior to the date of the election.

35066. The conducting authority, or any member or members of the conducting authority authorized by it, or any individual voter or bona fide association of citizens entitled to vote on the incorporation, change of organization, or municipal reorganization, or any combination of such voters and bona fide association of citizens may file a written argument for, or a written argument against, the question to be submitted to the voters.

Arguments shall not exceed 300 words in length and shall be filed with the clerk of the conducting authority not less than 54 days prior to the date of the election.

35067. Not less than 70 days prior to the date of the election as specified in the resolution calling the election, the clerk of the conducting authority shall cause to be published an announcement requesting voters to submit arguments for and arguments against the proposal. The announcement shall be published in accordance with Section 6061 in a newspaper of general circulation which is circulated in the affected territory.

The announcement shall contain the following:

(a) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory;

(b) An invitation to any registered voter or bona fide association of citizens entitled to vote on the proposal to submit and file with the clerk for printing and distribution in the ballot pamphlet, within 54 days of the election, an argument for or an argument against the proposal;

(c) The date of the election;

(d) A statement that only one argument for and one argument against shall be selected and printed in the ballot pamphlet; and

(e) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than three signatures.

35068. If more than one argument for or more than one argument against the proposal is filed with the clerk within the time prescribed in Section 35066, the clerk shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the clerk shall give preference and priority in the order named to the arguments of the following:

(a) The conducting authority or any authorized member or members of the conducting authority.

(b) Individual voters or bona fide association of citizens or a combination of voters and associations.

35069. The provisions of Section 3785.5 of the Elections Code shall apply with regard to the preparation and submittal of rebuttal arguments.

35070. The clerk shall cause a ballot pamphlet concerning the proposal to be printed and mailed to each voter entitled to vote on the question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition to be voted on.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) One argument for the proposal, if any.

(d) One rebuttal to the argument for the proposal, if any.

(e) One argument against the proposal, if any.

(f) One rebuttal to the argument against the proposal, if any.

The clerk shall mail a ballot pamphlet to each voter entitled to vote in the election at least 10 days prior to the date of the election. Such a ballot pamphlet is "official matter" within the meaning of Section 10010 of the Elections Code.

35071. The canvass of ballots cast at any election held pursuant to this part shall be conducted by the conducting auhority at its next regular meeting held at least three days after the election. The canvass shall be completed at the meeting, if practicable, or as soon thereafter as possible, avoiding adjournments.

CHAPTER 2. PRELIMINARY PROCEEDINGS

Article 1. General Provisions

35100. Preliminary proceedings for city incorporation, municipal reorganization and change of organization may be initiated as follows:

(a) Proceedings for incorporation may be initiated by proposals made by petition or by resolution of application of the affected county or an affected district.

(b) Proceedings for changes of organization of a city or municipal reorganization may be initiated by proposals made by petition or by resolution of application of the legislative body of any affected city or the affected county.

All such preliminary proceedings shall be initiated in accordance with this chapter.

35101. Preliminary proceedings shall be deemed initiated on the date a petition or resolution of application is accepted for filing by the executive officer of the commission of the county in which the affected territory is located.

35102. Whenever a city submits a resolution of application, for a municipal reorganization or a change of organization pursuant to this part, the city shall submit with the resolution of application a plan for providing services within the affected territory of the municipal reorganization or change of organization. The plan for providing services shall include the following information and any additional information required by the commission or the executive officer: enumeration and description of the services to be extended to the affected territory; the level and range of such services; indication of when such services can feasibly be extended to the affected territory; indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the city would impose or require within the affected territory should the municipal reorganization or change of organization be completed; and how the services will be financed.

35103. A commission may establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer. Such fees shall not exceed fifteen cents ($0.15) for each signature affixed to the petition. A minimum filing fee of not to exceed ten dollars ($10) may be established. Any fees so established shall be paid to the executive officer at the time of filing a petition. No petition shall be deemed filed until such fees have been paid.

35104. The commission also may establish a schedule of processing fees for the estimated expenses of the preliminary proceedings to be taken by the commission. Such fees shall not exceed five hundred dollars ($500) for each proposal. Such processing fee shall be deposited with the executive officer after the filing with the executive officer of any resolution of application by the legislative body of a city or the certification by the executive officer of the sufficiency of a petition. The deposit of the processing fee shall be made within such period as the commission may specify. No further action shall be taken upon any such resolution of application or petition until the processing fee is deposited.

Article 2. Form, Filing and Certification of Petition

35110. A proposal for city incorporation, change of organization or municipal reorganization may be made by petition. Any such petition shall contain substantially the following:

(a) State that the proposal is made pursuant to this part.

(b) State the nature of the proposed city incorporation, change of organization, or municipal reorganization.

(c) Set forth a description of the boundaries of the affected territory accompanied by a map showing such boundaries.

(d) State the reason or reasons for the proposed incorporation, change of organization, or municipal reorganization.

(e) State whether the petition is signed by registered voters or owners of land.

(f) Designate not to exceed three persons as chief petitioners,

setting forth their names and mailing addresses.

(g) Request that proceedings be taken for incorporation, change of organization, or municipal reorganization pursuant to this part.

35111. If a petition is for incorporation or for consolidation, the petition may propose a name for the new or consolidated city.

35112. A petition may consist of a single instrument or separate counterparts.

35113. Each person signing a petition shall, at the time he signs the petition, affix after his signature the date upon which he signs the petition.

35114. If a petition is signed by registered voters, each person signing the petition shall, in addition to his signature and the date upon which he signs the petition, indicate on the petition his place of residence, giving street and number or other designation sufficient to enable the place of residence to be readily ascertained.

35115. If a petition is signed by owners of land, each person signing the petition shall, in addition to his signature and the date on which he signs the petition, include on the petition a written description sufficient to identify the location of the land owned by him.

35116. No petition shall be accepted for filing unless the signatures thereon shall have been secured within six months of the date on which the first signature on the petition was affixed and such petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file such petition in accordance with Section 35119.

35117. All petitions shall be filed with the executive officer of the commission.

35118. Within 30 days after the date of filing a petition, the executive officer of the commission shall cause the petition to be examined and shall issue a certificate of sufficiency indicating whether it is signed by the requisite number of signers.

If the certificate of the executive officer shows the petition to be insufficient, he shall immediately give notice by registered mail of the insufficiency to the chief petitioners, if any. Such mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the certificate of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his examination.

A certificate of sufficiency shall be signed by the executive officer and dated. Such certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination.

35119. If the petition, including any supplemental petition, shall be certified to be insufficient, it shall be filed with the executive officer

as a public record, without prejudice to the filing of a new petition. The executive officer shall give mailed notice to the chief petitioners, if any, stating that the petition has been found to be insufficient.

35120. If the petition, including any supplemental petition, shall be certified to be sufficient, the executive officer shall give mailed notice thereof to the chief petitioners, if any.

35121. If a petition is signed by registered voters, the executive officer shall cause the names of the signers on the petition to be compared with the voters' register in the office of the county clerk or registrar of voters and have ascertained therefrom:

(a) The number of registered voters in the affected territory.

(b) The number of qualified signers appearing upon the petition.

35122. If a petition is signed by owners of land, the executive officer shall cause the names of the signers on the petition to be compared with the names of the persons shown as owners of land on the last equalized assessment roll of the county and have ascertained to the extent possible therefrom:

(a) The total number of landowners within the territory and the total assessed valuation of all land within the affected territory.

(b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

35123. For purposes of evaluating the sufficiency of any petition signed by owners of land:

(a) The assessed value to be given land exempt from taxation or owned by a public agency shall be determined by the county assessor, at the request of the executive officer, in the same amount as he would assess such land, if it were not exempt from taxation or owned by a public agency.

(b) The value given land held in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in such land.

(c) When land is subject to a written recorded agreement to buy, the purchaser under the agreement may sign a petition and the seller may not sign, even though the seller is shown as the owner of the land on the last equalized assessment roll.

35124. Any public or federal agency owning land within the territory which is the subject of the proposed incorporation, change of organization, or municipal reorganization shall be deemed a landowner for the purpose of the signing and certification of a petition for an incorporation, a change of organization, or a municipal reorganization. Any such agency may authorize such petition to be signed for and on its behalf by any duly authorized officer or employee.

Article 3. Signature Requirements for Petitions

35130. A petition for the incorporation of a city shall be signed by either:

(a) Not less than 25 percent of the registered voters residing in the area to be incorporated, as determined by the commission pursuant to subdivision (j) of Section 35150; or

(b) Not less than 25 percent of the number of owners of land within the territory proposed to be incorporated who also own not less than 25 percent of the assessed value of land within the territory proposed to be incorporated, as shown on the last equalized assessment roll of the county.

35131. A petition for the disincorporation of a city shall be signed by not less than 20 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

35132. A petition for the consolidation of two or more cities shall be signed by not less than 20 percent of the registered voters of each affected city as shown on the county register of voters.

35133. A petition for annexation of territory to a city shall be signed either:

(a) By not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters; or

(b) By not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within such territory as shown on the last equalized assessment roll.

35134. A petition for detachment of territory from a city shall be signed either:

(a) By not less than 20 percent of the registered voters residing within the territory proposed to be detached, as shown on the county register of voters; or

(b) By not less than 20 percent of the number of owners of land within the territory proposed to be detached who also own 20 percent of the assessed value of land within such territory as shown on the last equalized assessment roll.

35135. A petition for municipal reorganization shall be signed so as to comply with the applicable signature requirements of Sections 35131, 35132, 35133, and 35134 of this article with respect to each of the various changes of organization proposed in such petition, and with the signature requirements of Section 35130 if incorporation is proposed as part of the reorganization.

Article 4. Contents and Filing of a Resolution of Application

35140. (a) A proposal for a change of organization or municipal reorganization may be made by the adoption of a resolution of application by the legislative body of an affected city or county.

(b) A proposal for incorporation may be made by the adoption of a resolution of application by the legislative body of the affected county or affected district.

Except for the provisions regarding signers and signatures, a

resolution of application shall contain all matters specified for a petition in Section 35110 and, when adopted by the legislative body of a city, shall be submitted with a plan for services prepared pursuant to Section 35102.

35141. The clerk of the legislative body adopting a resolution of application shall file a certified copy thereof with the executive officer of the commission.

Article 5. Notice, Hearing and Determination by the Commission.

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

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

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

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

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

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

(f) To approve the annexation after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election if the commission finds that the territory contained in an annexation proposal (1) does not exceed 100 acres in area;

(2) Does not exceed 100 acres in area and such 100 acres constitutes the entire island.

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

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

(4) Is substantially developed or developing;

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

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

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

(i) The availability of public utility services.

(ii) The presence of public improvements

(iii) Appropriate zoning of the area to authorize the placement of improvements.

(iv) The presence of physical improvements upon the parcel or parcels within such area.

(g) To approve the annexation of unincorporated, noncontiguous territory not exceeding 100 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.

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

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

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

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

35151. If a petition for an uninhabited annexation, an uninhabited detachment, or for a municipal reorganization consisting solely of annexations or detachments of uninhabited territory, or both, shall be signed by all of the owners of land within the affected territory of the proposed change of organization or municipal reorganization, or if a resolution of application by a legislative body of an affected city or county making a proposal for an annexation or detachment, or for a municipal reorganization consisting solely of annexations or detachments, or both, shall be accompanied by proof, satisfactory to the commission, that all the owners of land within such territory have given their written consent to such change of organization or

municipal reorganization, the commission may approve such change of organization or municipal reorganization without notice and hearing by the commission. In such cases the commission may also authorize the conducting authority to conduct proceedings for the change of organization or municipal reorganization (i) without notice and hearing by the conducting authority, (ii) without an election, or (iii) both.

The executive officer shall give each affected city mailed notice of the filing of any such petition or resolution of application. The commission shall not, without the written consent of each affected city, take any further action on such petition or resolution of application for 10 days following such mailing. Upon written request by an affected city, filed with the executive officer during such 10-day period, the commission shall make determinations upon said petition or resolution of application only after notice and hearing thereon. If no such request is filed, the commission may make such determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, an affected city may (i) waive the requirement of such mailed notice, (ii) consent to the commission making such determinations without notice and hearing, or (iii) both.

35152. Upon accepting for filing a sufficient petition or a resolution of application, the executive officer shall issue a "certificate of filing" to the chief petitioners or the legislative body making the proposal. A certificate of filing shall be in the form prescribed by the executive officer. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice hereof as provided in this part. The date of such hearing shall be not more than 90 days after issuance of the certificate.

35153. The executive officer shall also give mailed notice as provided in this part of any hearing of the commission to:

(a) Any affected city, county, or district;

(b) The chief petitioners, if any;

(c) Each person who shall have filed a written request for special notice with the executive officer; and

(d) Each registered voter and owner of land, within the territory proposed to be annexed, when the executive officer finds that the provisions of subdivision (f) of Section 35150 apply.

35154. If two or more proposals pending before the commission shall conflict or in any way be inconsistent with each other, the commission may determine the relative priority for conducting any further proceedings based on any such proposals. Any such determination shall be included in the terms and conditions imposed by the commission. In the absence of such determination, priority shall be given to that proceeding which shall be based upon the proposal first filed with the executive officer.

35155. The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued

from time to time but not to exceed 70 days from the date specified in the original notice.

35156. At the hearing the commission shall hear and receive any oral or written protests, objections or evidence which shall be made, presented or filed, and consider the report of the executive officer and the plan for providing municipal services to the territory prepared pursuant to Section 35102.

35157. At any time not later than 35 days after the conclusion of the hearing, the commission shall adopt a resolution making determinations approving or disapproving the proposal.

35158. The resolution making determinations shall also:

(a) Make any of the findings or determinations authorized or required pursuant to Section 35150;

(b) If applicable, assign a distinctive short-term designation to the affected territory and a description therefor; and

(c) Direct the appropriate conducting authority to initiate proceedings in compliance with such resolution.

35159. The executive officer shall mail a certified copy of the commission's resolution making determinations to:

(a) The conducting authority;

(b) The chief petitioners, if any; and

(c) Each affected city, county and district.

35160. If the commission wholly disapproves any proposal, no further proceedings shall be taken on such proposal. No new proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

35161. If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, it shall be mandatory upon the conducting authority to take such proceedings in accordance with Chapter 3 (commencing with Section 35200) of this part. Such proceedings shall be initiated, conducted, and completed pursuant to those provisions which are applicable to the proposal and the territory contained in the proposal as it is approved by the commission. If the commission approves the proposal with modifications or conditions, proceedings shall be initiated, conducted, and completed in compliance with such modifications or conditions.

35162. The conducting authority or any affected county, city, district, landowner, voter, taxpayer, inhabitant, or other interested person desiring any addition, deletion, amendment, or revision of any commission resolution making determinations or of any term, condition, or other provision therein, including the boundaries of the affected territory determined and established by the commission, shall file written application therefor with the executive officer within 60 days of the adoption of the commission resolution, who shall present the same to the commission at its next regular meeting.

The commission, in its discretion, may either (a) without further notice and hearing, deny or approve such application in whole or in part, or (b) provide for notice and hearing upon said application in the same manner as for the original proposal, prior to denying or approving the same.

The determinations of the commission as specified in its resolution, or in any such amended resolution, including the commission's determinations as to boundaries of the affected territory, shall be final and conclusive, and no further changes shall be made except as provided in this section.

35163. Whenever the executive officer is required pursuant to this part to prepare an impartial analysis of a proposition for approval by the commission, the commission may, by rule, provide a procedure for approval or modification and approval of the executive officer's analysis.

CHAPTER 3. PROCEEDINGS

Article 1. General Provisions

35200. After completion of preliminary proceedings as provided in Chapter 2 (commencing with Section 35100) of this part, proceedings for incorporation, change of organization of a city, or municipal reorganization shall be taken pursuant to this chapter.

35201. No later than 35 days after the date of adoption of the commission's resolution making determinations, the conducting authority shall adopt a resolution initiating proceedings in accordance with the commission's resolution. A certified copy of the resolution initiating proceedings shall, immediately upon adoption, be mailed by the clerk of the conducting authority to the executive officer of the commission.

35202. After the expiration of 35 days from the date of adoption of the commission's resolution making determinations, the commission may by resolution certify to the board of supervisors of the county in which the affected territory is located, that the conducting authority has failed or refused to initiate, conduct or complete proceedings for the change of organization or municipal reorganization in compliance with the commission's resolution making determinations, or has failed to comply with any terms or conditions thereof.

35203. At any time after the adoption of a resolution of certification pursuant to Section 35202, the board of supervisors shall assume jurisdiction to initiate, conduct, and complete any proceedings for the change of organization or municipal reorganization and to enforce compliance with any terms or conditions thereto referred to in such resolution. Upon the assumption of such jurisdiction, the board of supervisors and the clerk and other officers of the county shall have exclusive jurisdiction with respect thereto and may exercise all powers and duties vested in the conducting authority and

the clerk or other officers of such authority. Any jurisdiction assumed and exercised by the board of supervisors and the clerk or other officers of the county pursuant to this section shall be given the same force and effect as if taken by the conducting authority and the clerk or officers thereof.

35204. Upon adoption of a resolution initiating proceedings pursuant to this chapter, jurisdiction over the proceedings is acquired by the legislative body of the conducting authority, and until such proceedings are completed or terminated pursuant to this chapter, no other petition or resolution of application seeking the incorporation, municipal reorganization, or change of organization of all or part of the territory described by the resolution initiating proceedings shall be filed with, or acted on, by the commission.

35205. In proceedings for an annexation, detachment, municipal reorganization, or incorporation, any written protest must show the date that each signature was affixed to such protest. All signatures without a date or bearing a date prior to the date of adoption of the resolution initiating proceedings shall be disregarded for the purpose of ascertaining the existence of a majority protest. Any person who has signed a written protest may withdraw his name from such protest at any time prior to conclusion of the public hearing.

Article 2. Annexation and Detachment

35220. Except as otherwise provided in Sections 35220.5, 35221, 35222, and 35223, the conducting authority shall adopt a resolution initiating proceedings for an annexation or detachment, which resolution shall comply with the commission's resolution making determinations and shall:

(a) Indicate the manner in which, and by whom, preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition).

(b) State the distinctive short form designation assigned by the commission to the territory proposed to be annexed or detached and set forth a description of the exterior boundaries of such territory.

(c) State whether the territory proposed to be annexed or detached is inhabited or uninhabited as determined by the commission in its resolution making determinations.

(d) State the reason or reasons for the proposed annexation or detachment as set forth in the proposal thereof submitted to the commission.

(e) Set forth any terms and conditions of the proposed annexation or detachment contained in the commission's resolution making determinations.

(f) Fix a time, date and place of hearing on the proposed annexation or detachment, which shall be not less than 30 days nor more than 45 days after the date of adoption of the resolution initiating proceedings.

(g) If the territory proposed to be annexed or detached is inhabited, state that any owner of land within the territory, or any registered voter residing within the territory may file a written protest against the annexation with the clerk of the conducting authority at any time prior to conclusion of the conducting authority's hearing on the proposed annexation or detachment.

(h) If the territory proposed to be annexed or detached is uninhabited, state that any owner of land within the territory may file a written protest against the annexation or detachment with the clerk of the conducting authority at any time prior to the conclusion of the conducting authority's hearing on the proposed annexation or detachment.

35220.5. No later than 35 days after receipt of notification by the conducting authority of the commission's resolution making determinations, the conducting authority of a city with a population of 1,000 or less within which 10 percent or less of the land area is zoned for residential uses may adopt a resolution terminating all present proceedings in connection with any proposed annexation or detachment.

35221. If authorized by the commission pursuant to Section 35151, uninhabited territory may be annexed or detached by resolution of the conducting authority without notice and hearing if all of the landowners within such territory have consented in writing to such annexation or detachment.

35222. The clerk of the conducting authority shall cause notice of the hearing on the proposed annexation or detachment to be given as provided in Section 35055. Notice required by this section shall include all the information specified in Section 35220.

35223. The clerk of the conducting authority shall also give mailed notice of the hearing as required by Section 35055 to:

(a) Any person who has filed his name and address with the clerk and has requested such mailed notice;

(b) The chief petitioners, if any, as indicated in the petition initiating proceedings pursuant to this part;

(c) To each affected city, county, and district; and

(d) To the executive officer of the local agency formation commission.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35220.

35224. The hearing on the proposed annexation or detachment shall be held by the conducting authority on the date and at the time specified in the resolution giving notice of the hearing. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the resolution adopted pursuant to Section 35220.

35224.5. When approved and authorized by the commission pursuant to the provisions of subdivision (f) of Section 35150, the conducting authority may, upon conclusion of the hearing, adopt a resolution ordering the annexation without an election. If, however,

the conducting authority disapproves the annexation, such authority shall by resolution, terminate proceedings. The provisions of Sections 35225, 35226, 35227, 35228, and 35229 shall not apply to any annexation subject to the provisions of this section.

35225. At any prior time to conclusion of the hearing, any owner of land or any registered voter within inhabited territory proposed to be annexed or detached, or any owner of land within uninhabited territory proposed to be annexed or detached, may file a written protest against the annexation or detachment. Each protest shall state the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of such land; or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner by an agent authorized in writing by the owner to act as agent with respect to such land. Protests may be made on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making such protest.

35226. At the hearing, the conducting authority shall hear and receive any oral and written protests, objections, or evidence which shall be made, presented, or filed.

35227. Upon conclusion of the hearing the conducting authority shall determine the value of written protests filed and not withdrawn. The value of written protests shall be determined in the same manner prescribed in Sections 35121, 35122, and 35123 of this part for determining the sufficiency of petitions filed with the commission.

35228. When the territory proposed to be annexed or detached is inhabited, the conducting authority, not less than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed or detached subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to or detached from the city, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory, or owners of land, who also own not less than 25 percent of the total assessed value of land within the territory.

(c) Order the territory annexed or detached without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the owners of land who own less than 25 percent of the total assessed value of land within the territory.

35229. When the territory proposed to be annexed or detached is

uninhabited, the conducting authority, not less than 30 days after conclusion of the hearing on protests, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by the owners of land and improvements who own not less than 50 percent of the total assessed value of land and improvements within the territory.

(b) Order the territory annexed or detached if written protests have been filed and not withdrawn by owners of land and improvements who own less than 50 percent of the total assessed value of land and improvements within the territory.

The value of improvements represented by such protest shall be determined in the same manner as the value of land is determined.

35229.5. Notwithstanding the provisions of Section 35228 and 35229 the conducting authority, not less than 30 days after conclusion of a hearing to detach inhabited or uninhabited territory, may by resolution, terminate such proceedings to detach territory.

35230. If, pursuant to subdivision (b) of Section 35228, the conducting authority adopts a resolution ordering annexation of detachment of territory subject to the confirmation by the voters, such election shall be called and held at the next regular election held at least 75 days after the date on which the resolution was adopted.

35231. Any resolution adopted pursuant to subdivision (b) of Section 35228 ordering annexation or detachment of territory subject to the confirmation by the voters shall also call an election in the affected city and submit to the registered voters residing therein the same question at the same time as that submitted to the registered voters residing within the affected territory if:

(a) The total assessed value of land within the affected territory equals one-half or more of the total assessed value of land within the affected city as shown on the last equalized assessment roll; or

(b) The number of registered voters residing within the affected territory equals one-half or more of the number of registered voters residing within the affected city as shown on the county register of voters.

35232. The clerk of the conducting authority shall cause notice of the election to be given as prescribed in Section 35050.

35233. The notice of election shall contain all matters specified in Section 35061.

35234. When approved and authorized by the commission pursuant to the provisions of subdivision (g) of Section 35150 or Section 35151, the conducting authority may adopt a resolution ordering an annexation or detachment: (i) without notice and hearing by the council, (ii) without an election, or (iii) both (i) and (ii).

35235. After the canvass of the returns of any election or elections called on the question of annexation or detachment, the conducting

authority shall declare by resolution the total number of votes cast in the election or elections, and the number of votes cast for and against the annexation or detachment.

35236. The conducting authority shall adopt a resolution confirming the order of annexation or detachment if a majority of votes cast upon such question are in favor of annexation or detachment either: (i) at an election called in the territory ordered to be annexed or detached; or (ii) at an election called within the territory ordered to be annexed or detached and within the territory of the affected city. The clerk of the conducting authority shall cause a copy of the resolution confirming the order of annexation or detachment to be filed with the executive officer of the commission.

35237. If the majority of the votes cast is against annexation or detachment, the conducting authority by resolution, shall terminate proceedings and file a certified copy of such resolution with the executive officer of the commission.

35238. If proceedings for annexation or detachment are terminated, either by majority protest as provided in Sections 35228 and 35229 or by failure of the majority of voters to confirm the annexation or detachment as provided in Section 35237, no new proposal for annexation or detachment of the same or substantially the same territory may be filed with the commission within one year after the date of adoption of the conducting authority's resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

35239. Any resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory annexed or detached, and shall contain all terms and conditions imposed upon the annexation or detachment.

Article 3. Incorporation

35250. The board of supervisors of the county in which territory proposed to be incorporated is located, shall be the conducting authority and shall adopt a resolution initiating proceedings for incorporation, which resolution shall comply with the commission's resolution making determinations and shall:

(a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).

(b) State the name of the proposed city as stated in the petition or resolution of application initiating preliminary proceedings and set forth a description of the exterior boundaries of such proposed city.

(c) State the number of inhabitants or the number of registered voters residing within the proposed city as determined by the commission in its resolution making determinations.

(d) State the reason or reasons for the proposed incorporation as set forth in the proposal therefor.

(e) Set forth any terms and conditions of the proposed incorporation contained in the commission's resolution making determinations.

(f) Fix a time, place, and date of hearing on the proposed incorporation which shall be not less than 30 days nor more than 45 days after the date of adoption of the board's resolution pursuant to this section.

(g) State that any registered voter residing within such territory may file a written protest against the incorporation at any time prior to conclusion of the conducting authority's hearing on the proposed incorporation.

35251. The clerk of the conducting authority shall cause notice of the hearing to be given by publication as provided in Section 35055. Notice required by this section shall contain all the information specified in Section 35250.

35252. The clerk shall also give mailed notice of the hearing as provided in Section 35055 to:

(a) Any person who has filed his name and address with the clerk and has requested such mailed notice;

(b) The chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35250.

35253. The hearing on the proposed incorporation shall be held by the conducting authority on the date and at the time specified in the notice. The hearing may be continued from time to time not to exceed 60 days from the date specified for the hearing in the resolution adopted pursuant to Section 35250.

35254. At any time prior to conclusion of the hearing, any registered voter residing within the territory proposed to be incorporated may file written protest against the incorporation.

35255. At the hearing, the conducting authority shall hear and receive any oral or written protests, objections, or evidence which shall be presented.

35256. Upon conclusion of the hearing, the conducting authority shall determine the value of written protests filed and not withdrawn. The value of protests shall be determined in the manner prescribed in Sections 35121, 35122, and 35123 of this part for determining the sufficiency of petitions filed with the commission.

35257. Not less than 30 days after conclusion of the hearing, the conducting authority shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings, if written protests have been filed and not withdrawn by 50 percent or more of the registered voters residing within the territory. A certified copy of the resolution shall be filed with the executive officer of the commission.

(b) Order the affected territory incorporated subject to the confirmation of the voters therein on the question, and call a special election and submit to the voters residing within the affected territory the question of whether such territory shall be incorporated, if written protests have been filed and not withdrawn by less than 50 percent of the registered voters residing within the affected territory.

35258. If pursuant to Section 35257 the conducting authority adopts a resolution ordering incorporation of territory subject to the confirmation of the voters, such election shall be called and held on the next regular election date occurring at least 75 days after the date on which the resolution was adopted. In addition to the election on the question of incorporation, the conducting authority shall provide for the election of the officers of the proposed city required to be elected.

35259. The clerk shall cause notice of the election to be published as provided in Section 35055.

35260. The notice of election shall contain all the matters specified in Section 35061, and in addition shall:

(a) If the petition so requests, state that the voters may express a preference as to whether or not the city should operate under the city manager form of government, and the ballots used at the election shall include the words "for city manager form of government" and "against city manager form of government;" and

(b) Inform voters of their right to express a preference as between names for the proposed city, and the ballots used at the election shall contain the proposed names of the city in alternative form.

(c) State the proposed maximum property tax rate.

35261. After the canvass of the returns of any election called on the question of incorporation, the conducting authority shall declare by resolution the total number of votes cast in the election and the number of votes cast for and against the incorporation.

35262. If the majority of votes cast is for incorporation, the conducting authority shall adopt a resolution:

(a) Confirming the order of incorporation;

(b) Giving the newly incorporated territory a name, such name being either the name in the petition or favored by the electors; and

(c) Declaring the persons receiving the highest number of votes for the several offices of the newly incorporated city to be elected to those offices.

The clerk of the conducting authority shall cause a certified copy of the resolution to be filed with the executive officer of the commission.

35263. If the majority of votes cast is against incorporation, the conducting authority by resolution shall terminate proceedings for the incorporation. A certified copy of said resolution shall be filed with the executive officer of the commission.

35264. If proceedings for incorporation are terminated either by majority protest as provided in Section 35257 or by failure of a

majority of the voters to confirm the incorporation as provided in Section 35263, no new proposal for incorporation of the same or substantially the same territory may be filed with the commission within two years of the date of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

Article 4. Disincorporation.

35280. The conducting authority shall adopt a resolution initiating proceedings for disincorporation, which resolution shall comply with the commission's resolution making determinations and shall:

(a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).

(b) State the name of the city proposed to be disincorporated and the county in which such city is located.

(c) State the reason or reasons for the proposed disincorporation as set forth in the proposal thereof submitted to the commission.

(d) Set forth the terms and conditions of the proposed disincorporation contained in the commission's resolution making determinations.

(e) Order the city disincorporated subject to confirmation of the voters of the city on the question and call a special election and submit to the voters residing within the city the question of whether the city shall be disincorporated.

(f) Contain all matters required by Section 35061 which are not otherwise covered in this section.

35281. The election shall be called and held on the next regular election date occurring at least 75 days after the date upon which the resolution calling the election was adopted.

35282. The clerk of the conducting authority shall cause notice of the election to be given by publication and by posting as provided in Section 35055. Notice required to be given by this section shall contain all the information specified in Section 35280.

35283. The clerk shall also give mailed notice of the election as provided in Section 35055 to:

(a) Any person who has filed his name and address with the clerk and has requested such mailed notice;

(b) The chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part; and

(c) The board of supervisors of the county in which the affected city is located.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35280.

35284. After the canvass of the returns of any election called on the question of disincorporation, the conducting authority shall declare

by resolution the total number of votes cast for and against the proposed disincorporation within the affected city. The conducting authority shall adopt a resolution confirming the order of disincorporation if a majority of the votes cast upon such question is in favor of disincorporation. A certified copy of such resolution shall be filed with the executive officer of the commission.

35285. If, in any election called pursuant to this article, a majority of the votes cast is against disincorporation, the conducting authority, by resolution, shall terminate proceedings. A certified copy of such resolution shall be filed with the executive officer of the commission. No new proposal for disincorporation of the city may be filed with the commission within two years after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

Article 5. Consolidation.

35290. The conducting authority shall adopt a resolution initiating proceedings for consolidation, which resolution shall comply with the commission's resolution making determinations and shall:

(a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).

(b) State the names of all cities proposed to be consolidated, the name of the proposed successor city, and the county in which the same are located.

(c) State the reason or reasons for the proposed consolidation as set forth in the proposal thereof submitted to the commission.

(d) Set forth any terms and conditions of the proposed consolidation contained in the commission's resolution making determinations.

(e) Order the cities consolidated subject to confirmation of the voters of each of the cities on the question; call a special election in each of the cities proposed to be consolidated for that purpose; and submit to the voters residing within each such city the question of whether the cities shall be consolidated.

(f) State the name of the proposed successor city if a name is proposed in the petition or resolution of application submitted to the commission.

(g) Contain all matters required by Section 35061 which are not otherwise covered in this section.

35291. The clerk of the conducting authority shall cause notice of each consolidation election to be given by publication and by posting as provided in Section 35055. Notice required to be given by this section shall contain all the information specified in Section 35290 and inform the voters of their right to express a preference for the name of the successor city if the consolidation is approved.

35292. The elections on the question of consolidation shall be called and held on the next regular election date held at least 75 days after the date on which the resolution was adopted. In addition to the elections on the question of consolidation, the conducting authority shall provide for the election of the officers of the successor city required to be elected.

35293. After the canvass of the returns of the elections called on the question of consolidation, the conducting authority shall declare by resolution the total number of votes cast in the election held in each city proposed to be consolidated and the number of votes cast for and against the consolidation in each such election.

35294. If the majority of votes cast in each city is for consolidation, the conducting authority shall adopt a resolution:

(a) Confirming the order of consolidation.

(b) Declaring the persons receiving the highest number of votes for the several offices of the successor city to be elected to those offices.

(c) If a majority of the voters have expressed a preference for the name of the successor city giving the successor the name so preferred. The clerk of the conducting authority shall file a certified copy of such resolution with the executive officer of the commission and the clerk of each affected city.

35295. If the majority of votes cast in at least one of the cities is against consolidation, the conducting authority by resolution shall terminate proceedings for the consolidation and file a certified copy of such resolution with the executive officer of the commission and the clerk of each of the affected cities. No new proposal for consolidation of any of the cities may be filed with the commission within two years after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

Article 6. Municipal Reorganization

35300. The conducting authority shall adopt a resolution initiating proceedings for a municipal reorganization, which resolution shall comply with the commission's resolution making determinations and shall:

(a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).

(b) State the name of each affected city for which any change of organization is proposed.

(c) Briefly describe each particular change of organization proposed for each of the affected cities and any new cities proposed to be incorporated.

(d) State the reason or reasons for the proposed municipal

reorganization as set forth in the proposal therefor.

(e) Set forth any terms and conditions of the proposed municipal reorganization contained in the commission's resolution making determinations.

(f) Fix a time, place, and date of hearing on the proposed municipal reorganization which shall be not less than 30 nor more than 45 days after the date of adoption of the conducting authority's resolution pursuant to this section.

(g) State that any interested person desiring to make written protest against such municipal reorganization shall do so by written communication filed with the clerk of the conducting authority not later than the hour set for hearing.

(h) If the municipal reorganization proposal includes incorporation of a new city:

(1) State the name, if any, of the proposed city as stated in the petition or resolution of application initiating preliminary proceedings; and

(2) State the number of inhabitants or the number of registered voters residing within the proposed city as determined by the commission in its resolution making determinations.

(i) If the municipal reorganization proposal includes consolidation, state the names of the affected cities proposed to be consolidated and the name, if any, proposed for the successor city as provided in the petition or resolution of application initiating preliminary proceedings.

(j) Set forth a general description of the boundaries of each change of organization or incorporation proposed in the municipal reorganization.

35301. The clerk of the conducting authority shall cause notice of the hearing to be given by publication as provided in Section 35055. Notice required by this section shall contain all the information specified in Section 35300.

35302. The clerk shall also give mailed notice of the hearing as provided in Section 35055 to:

(a) Any person who has filed his name and address with the clerk and has requested such mailed notice;

(b) Chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part;

(c) Each affected city; and

(d) The executive officer of the local agency formation commission.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35300.

35303. The hearing on the proposed municipal reorganization shall be held by the conducting authority on the date and at the time specified in the resolution giving notice of the hearing. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the resolution adopted pursuant to Section 35300.

35304. At any time prior to conclusion of the hearing, any owner of land or any registered voter within the territory proposed to be reorganized may file a written protest against the municipal reorganization. Each protest shall state the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of such land; or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner by an agent authorized in writing by the owner to act as agent with respect to such land. Protests may be made on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making such protest.

35305. At the hearing the conducting authority shall hear and receive any oral or written protests, objections or evidence which shall be made.

35306. Upon conclusion of the hearing, the conducting authority shall determine the value of written protests filed and not withdrawn. The value of protests shall be determined in the manner prescribed in Sections 35121, 35122, and 35123 of this part for determining the sufficiency of petitions filed with the commission.

35307. Where a proposed inhabited municipal reorganization consists solely of annexations or detachments, or both, the conducting authority, not less than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory reorganized subject to the confirmation by the voters on the question and call a special election and submit to the voters residing within the affected territory the question of whether it shall be reorganized, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory or 25 percent or more of the number of owners of land who also own not less than 25 percent of the total assessed value of land within the territory.

(c) Order the territory reorganized without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the number of owners of land who also own less than 25 percent of the total assessed value of land and improvements within the territory.

35308. Where a proposed uninhabited municipal reorganization consists solely of annexations or detachment, or both, the conducting authority not less than 30 days after conclusion of the hearing shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following

actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by the owners of land and improvements who own not less than 50 percent of the total assessed value of land and improvements within the territory.

(b) Order the territory reorganized if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land and improvements within the territory.

The value of improvements represented by such protest shall be determined in the same manner as the value of land is determined.

35309. Where a proposed municipal reorganization does not consist solely of annexations or detachments or both, the conducting authority, not less than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters residing within the territory.

(b) Order the affected territory reorganized subject to the confirmation of the voters therein on the question and call a special election and submit to the voters residing within the affected territory the question of whether such territory shall be reorganized if written protests have been filed and not withdrawn by less than 50 percent of the registered voters residing within the affected territory.

35310. If pursuant to Section 35307 or 35309 the conducting authority adopts a resolution ordering a municipal reorganization of territory subject to the confirmation of the voters, such election shall be called and held on the next regular election date held at least 75 days after the date on which the resolution was adopted. In addition to the election on the question of municipal reorganization, if the proposed municipal reorganization includes the consolidation of two or more cities or the incorporation of a new city, or both, the conducting authority shall provide for the election of the officers of the consolidated or incorporated city or cities required to be elected.

35311. In any resolution ordering a municipal reorganization, subject to confirmation of the voters, the conducting authority shall call and provide for an election to be held and conducted:

(a) Within the entire territory of each city ordered to be incorporated, disincorporated or consolidated;

(b) Within any territory ordered annexed to or detached from a city; and

(c) Subject to the provisions of Section 35150(i), both within the territory proposed to be reorganized and within the territory of any city to which territory is proposed to be annexed.

35312. As approved and authorized by the commission pursuant to the provisions of Section 35151 the conducting authority may adopt

a resolution ordering a municipal reorganization (a) without notice and hearing by the conducting authority, (b) without an election, or (c) both.

35313. After the canvass of the returns of any election or elections called on the question of municipal reorganization, the conducting authority shall declare by resolution the total number of votes cast in the election or elections and the number of votes cast for and against the municipal reorganization.

35314. After the canvass of the returns of the election or elections called upon the question of municipal reorganization, the conducting authority shall adopt a resolution either:

(a) Confirming the order of municipal reorganization if the question of municipal reorganization was favored by a majority of the votes cast at each election held upon such question; or

(b) Declaring the order of municipal reorganization defeated by failure of the question of municipal reorganization to receive the required majority favorable vote at any or all of the elections held upon such question.

The clerk of the conducting authority shall file a certified copy of the resolution adopted pursuant to this section with the executive officer of the local agency formation commission.

35315. If proceedings for a municipal reorganization are terminated, either by majority protest as provided in Sections 35307, 35308, and 35309, or by failure of the required vote to confirm the municipal reorganization as provided in Section 35314, no new proposal for the same or substantially the same municipal reorganization affecting the same or substantially the same territory may be filed with the commission within one year after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

CHAPTER 4. COMPLETION AND EFFECTIVE DATE OF A CITY INCORPORATION, CHANGE OF ORGANIZATION, OR MUNICIPAL REORGANIZATION

35350. Immediately after adoption of a resolution ordering a change of organization or municipal reorganization without election or a resolution confirming an order for an incorporation, change of organization, or municipal reorganization after confirmation by the voters, the clerk of the conducting authority shall transmit a certified copy of such resolution along with a remittance to cover the fees required by Section 54902.5 to the executive officer of the commission. The executive officer shall examine such resolution and determine whether it is in compliance with boundaries, modifications, and conditions specified by the commission in its resolution making determinations.

(a) If the resolution ordering the change of organization,

municipal reorganization, or incorporation is determined not to be in compliance, the executive officer shall specify in writing the points of noncompliance and return the resolution to the conducting authority for modification.

(b) If the resolution ordering the change of organization, municipal reorganization, or incorporation is determined to be in compliance, the executive officer shall prepare and execute a certificate of completion and shall make the filings required by this chapter.

35351. The certificate of completion of proceedings prepared and executed by the executive officer shall contain:

(a) The name of the incorporated city or the name of each existing city for which a change of organization or municipal reorganization was ordered and the name of the county within which any such new or existing city is located.

(b) A statement of the kind or type of incorporation, change of organization, or municipal reorganization ordered.

(c) A description of the boundaries of the new city ordered incorporated or of any territory affected by the change of organization or municipal reorganization, which description may be made by reference to a map and legal description showing the boundaries attached to such certificate.

(d) Any terms and conditions of the incorporation, change of organization, or municipal reorganization.

(e) The date of adoption of the resolution ordering the change or organization or municipal reorganization, without an election; or the date of adoption of the resolution confirming an order for incorporation, change of organization, or municipal reorganization after confirmation by the voters.

If any resolution contains the information required to be contained in the certificate, the executive officer may attach a certified copy of such resolution to the certificate and refer to such resolution in the certificate.

35352. The executive officer shall record a certified copy of the certification of completion with the recorder of the county in which the affected territory is located, with the county surveyor, and with the clerk of each affected city.

35353. The incorporation, change of organization, or municipal reorganization shall be complete from the date of execution of the certificate of completion of proceedings and shall be effective from the dates specified in Sections 35354 and 35355.

35354. If no effective date was fixed in any of the terms and conditions or in the resolution ordering or confirming the order of incorporation, or change of organization or municipal reorganization, the effective date is the date of the recordation with the county recorder pursuant to Section 35352.

35355. If an effective date is fixed in the terms and conditions or the resolution ordering or confirming the order of incorporation, change of organization, or municipal reorganization, such date shall

be the effective date.

An effective date shall not be fixed which will be:

(a) Earlier than the date of execution of the certificate of completion.

(b) Later than the earlier of:

(1) One year after the date of execution of the certificate of completion; or

(2) The due date of any taxes or assessments levied upon property within the affected territory which was subject to the incorporation, change of organization, or municipal reorganization.

35356. The executive officer shall also make such filings as may be provided for by Chapter 8 (commencing with Section 54900) of Part 1, Division 2, Title 5.

CHAPTER 5. TERMS AND CONDITIONS; EFFECT OF CITY INCORPORATION, CHANGE OF ORGANIZATION, OR MUNICIPAL REORGANIZATION

Article 1. General Provisions

35400. No city incorporation, change of organization, or municipal reorganization or any term or condition thereof, shall impair the rights of any bondholder or other creditor of any county, city, or district. Notwithstanding any other provision of this part, or any incorporation, change of organization, or municipal reorganization completed pursuant to this part, or any term or condition thereof, each and every bondholder or other creditor may enforce all his rights in the same manner and to the same extent as if such incorporation, change of organization, or municipal reorganization, term or condition, had not been made. Any such rights may also be enforced against agencies and their respective officers, as follows:

(a) Annexation or detachment: against the city to or from which territory is annexed or detached.

(b) Incorporation: against the newly incorporated city.

(c) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.

(d) Consolidation: against the consolidated successor city.

(e) Municipal reorganization: against the affected city, successor consolidated city, successor county or newly incorporated city, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular municipal reorganization.

35401. Any proceeding completed pursuant to this part does not alter or affect the boundaries of any Assembly or senatorial district.

35402. All proper expenses incurred in conducting proceedings for city incorporation, change of organization or municipal reorganization pursuant to Chapter 3 of this part shall be paid, unless

otherwise provided by agreement between the conducting authority and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the city to or from which territory is annexed or detached or was proposed to be annexed or detached.

(b) In the case of incorporation proceedings, by the newly incorporated city or by the county within which the proposed city is located if the incorporation proceedings are terminated.

(c) In the case of disincorporation proceedings, from the remaining assets of the disincorporated city or by the city proposed to be disincorporated if disincorporation proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or by the cities proposed to be consolidated, to be paid by such cities in proportion to their respective assessed values, if consolidation proceedings are terminated.

(e) In the case of municipal reorganization:

(1) If the municipal reorganization is ordered, by the affected city or cities, successor consolidated city or cities, or newly incorporated city or cities, as the case may be, for any of the above-enumerated changes of organization or city incorporation which may be included in the particular municipal reorganization, to be paid by such cities in proportion to their assessed value.

(2) If the municipal reorganization proceedings are terminated or the proposal is defeated by the county within which such city is located.

35403. If at any time between each decennial federal census, a city annexes or detaches territory or consolidates with another city, the legislative body of the city annexing or detaching the territory or the legislative body of the successor city, shall reexamine the boundaries of its councilmanic districts, if any, after the first census is taken or the first current population estimates are obtained, following such annexation, detachment, or consolidation.

If, upon reexamination, the legislative body finds that the population of any councilmanic district has varied so that the districts no longer meet the criteria specified in Section 34891, the legislative body shall, within 60 days after such census is taken, or current population estimate received, by ordinance or resolution, adjust the boundaries of any or all of the councilmanic districts of the city so that the districts shall be as nearly equal in population as may be.

Article 2. Annexations

35410. Upon and after the effective date of an annexation, the territory annexed to a city, all inhabitants of such territory, and all persons entitled to vote by reason of residing within such territory shall be subject to the jurisdiction of such city and, except as otherwise provided in this article, shall have the same rights and duties as if such territory had been a part of such city upon its original

incorporation.

35411. Unless otherwise provided in the terms and conditions of the annexation, land and improvements within territory annexed shall be liable for the general indebtedness of the city existing at the time of annexation.

35412. As an alternative to any procedure prescribed by law for the division of taxes or assessments collected in a special district lying partially or wholly in territory annexed by an incorporated city, the city and the special district may enter into an agreement providing that the district shall continue to perform services for such annexed territory until the close of the fiscal year for which the special district has levied taxes or assessments.

Article 3. Detachment

35420. Except as otherwise provided in this article, upon and after the effective date of a detachment, the territory detached from a city, all inhabitants within such territory, and all persons formerly entitled to vote by reason of residing within such territory shall cease to be subject to the jurisdiction of such city and shall have none of the rights or duties of the remaining territory, inhabitants, or voters of the city.

35421. Unless othewise provided in the terms and conditions of the detachment, the city from which territory is detached may from time to time levy and collect from the detached territory its just proportion of liability for payment of the interest and principal of debts of the city contracted prior to detachment.

35422. When territory has been detached from a city, 10 taxpayers residing in the city or the territory may submit a verified petition to the superior court of the county in which the city is situated, requesting adjustment of the territory's proportion of the city's debts contracted prior to detachment and stating the facts of detachment and the amount of indebtedness.

35423. Upon receipt of such a petition, the court shall cause notice to be given by publication as provided in Section 35055, stating the substance of the petition and setting forth the time and place for hearing by the court on the petition.

35424. The hearing shall be held at least 30 days, but not more than 45 days, after the filing of the petition, and may be continued to another time by the court.

35425. Any person interested in the city, the detached territory, or the adjustment and settlement of the indebtedness, may demur to, or answer, the petition. The signers of the petition are plaintiffs; and those persons or agencies demurring to, or answering, the petition are defendants in the hearing.

35426. Except as otherwise provided, the rules of pleading and practice of the Code of Civil Procedure are applicable to the hearing.

35427. Upon the hearing, the court shall determine the amount due from the territory as its proportion of the city indebtedness contracted prior to detachment.

35428. In fixing the amount due, the court shall ascertain and find:

(a) The purposes for which the indebtedness was created.

(b) The manner and place in which the proceeds of the indebtedness were expended.

(c) The value of the property belonging to the city at the time of the detachment.

(d) The assessed value of the property situated in the city as shown by the last equalized assessment roll of the city in effect immediately preceding detachment.

(e) The assessed value of the detached territory as shown by such last equalized assessment roll.

35429. The detached territory is charged with a pro rata share of the city indebtedness contracted prior to the detachment and is entitled to the value of a pro rata share of the city's publicly owned property, in the same ratio as the value of the property remaining in the city, as determined by the last equalized assessment roll of the city in effect immediately preceding detachment.

35430. If the value of the city's publicly owned property remaining within the city is greater than its pro rata share, and such excess is greater than the territory's pro rata share of the city's indebtedness, the court shall find and adjudge that there is nothing due from the detached territory. After such finding and judgment, the detached territory is not liable for the payment of any city indebtedness, and all city property remaining within its boundaries belongs exclusively to it.

35431. In all other cases, the court shall find the balance due from the detached territory and render judgment accordingly. The judgment shall be assessed and collected in the manner and at the time that assessments and collections are made upon the property remaining in the city for payment of these debts.

35432. At any time, the detached territory may tender to the city legislative body the amount for which it is liable. If tender is made, the city's authority to levy taxes on the detached territory shall cease.

Article 4. Incorporation

35440. Except as otherwise provided in this article, upon and after the effective date of an incorporation, the territory incorporated, all inhabitants within such territory and all persons entitled to vote within such newly incorporated city by reason of residing there, shall be subject to the jurisdiction of such city and shall have the rights and duties conferred on them as inhabitants and voters of such incorporated city.

35441. If the newly incorporated city comprises territory formerly unincorporated, the city council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances theretofore applicable shall remain in full force and effect as city ordinances for a period of 120 days thereafter, or until the legislative body of the city has enacted ordinances superseding them, whichever shall first in

time occur. The ordinance shall provide that no city ordinance enacted within such 120-day period of time be deemed to supersede any county ordinance unless the city ordinance specifically refers thereto, and states an intention to supersede it. Enforcement of the continuing county ordinances in the incorporated area shall be by the city, except insofar as services of enforcement may be furnished in accordance with Section 35448.

35442. Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

35443. If the first general municipal election following an incorporation election will occur less than one year after the incorporation election, all of the city council members elected at the incorporation election shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified. Of the five council members elected at such second general municipal election, the three receiving the lowest number of votes shall hold office for two years and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office for four years and until their successors are elected and qualified. Subsequent council members shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

This section shall apply only to council members elected at an incorporation election held after the effective date of this section. If this section applies, the first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than council member offices are to be filled.

35444. Courts shall take judicial notice of the organization and existence of cities incorporated pursuant to this part.

35445. Immediately upon qualification of the elected officers, all persons in possession of the offices of the city shall surrender the possession of such offices, though the terms of office for which they were elected or appointed have not expired.

35446. All officers, boards, and persons holding any property in trust for any city use shall convey such property to the city or officer entitled to it.

35447. In any county having a population of more than 2,000,000,

the board of supervisors may, by a two-thirds vote, convey any parking lot owned by the county and situated within the boundaries of an incorporated city to such city for public parking purposes, without consideration other than the agreement by the city to continue to use and maintain the property as a public parking lot.

This section shall apply only to parking lots acquired principally from revenues raised through onstreet or offstreet parking fees for the specific purpose of parking lot development, and shall not apply to lots purchased through expenditures from the general fund or other means to serve as sites for other types of facilities.

The conveyance provided for by this section shall not occur until all liens or financial obligations attached to such lots have been satisfied.

35448. Whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the legislative body of the city requests discontinuance of the services, whichever first occurs.

Article 5. Disincorporation

35460. Except as otherwise provided in this article, upon and after the effective date of a disincorporation, the territory of the disincorporated city, all inhabitants within such territory, and all persons formerly entitled to vote by reason of residing within such territory shall cease to be subject to the jurisdiction of the disincorporated city and shall have none of the rights or duties of inhabitants or voters of a city.

35461. Upon disincorporation every public officer of the city shall turn over to the board of supervisors the public property in his possession.

35462. After ascertaining that disincorporation has carried, the conducting authority shall determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city which is unpaid or has not been collected.

35463. Within 30 days after the election, the legislative body of the disincorporated city shall turn over to the county treasurer all city money in its possession.

35464. If the conducting authority fails to provide the board of supervisors with the certified statement required by Section 35462, the board shall make the determinations provided for in such section.

35465. If a tax has been levied by the disincorporated city and remains uncollected, the county tax collector shall collect it when due and pay it into the county treasury.

35466. All property upon which any tax has been levied by the

disincorporated city, and become delinquent, and all property sold for any tax levied by the disincorporated city, may be redeemed by any interested party, on payment to the county treasurer of the sum which the auditor estimates would have been necessary to redeem the property if there had been no disincorporation.

35467. All money paid into the county treasury pursuant to this article shall be placed to the credit of a special fund established for the purpose of settling the affairs of the disincorporated city.

35468. Warrants for city indebtedness shall be drawn by the board of supervisors on the special fund.

35469. If there is not sufficient money in the treasury to the credit of the special fund to pay any city indebtedness, the board of supervisors shall cause to be levied, and there shall be collected from the territory formerly included within the city, taxes sufficient to pay the indebtedness as it becomes due.

35470. Such taxes shall be assessed, levied, and collected in the same manner and at the same time as other county taxes, and are additional taxes upon the property included within the territory of the disincorporated city.

35471. Any surplus remaining in the special fund after the payment of any debts shall be, at the discretion of the board of supervisors, transferred to the school district or districts included in the former city or used for the improvements of streets within the territory of the former city.

35472. The board of supervisors shall provide for collection of debts due the city and wind up its affairs. Upon an order by the board of supervisors the appropriate county officer shall perform any act necessary for winding up the city affairs, with the same effect as if it had been performed by the proper city officer.

35473. The county succeeds to all the rights of the city in such debts and may collect or sue for them in the name of the county.

35474. All costs and expenses incurred in winding up city affairs shall be part of the special fund.

35475. By ordinance the board of supervisors may assume control of, and continue to administer, all electric, power, lighting, or gas plants and all systems of waterworks, street lighting, or any other public utility owned by the city at the time of its disincorporation.

35476. If the revenues from any such public utility are not sufficient for its administration, conduct, or improvement, the board of supervisors shall levy a special tax upon all property within the disincorporated city. The special tax shall be levied upon the assessed value of the property as shown by the equalized assessment roll in effect on the first day of March of that year, and collected in the same manner and form of other county taxes.

35477. All sums collected shall be placed in a separate fund in the county treasury for the administration, conduct, and improvement of the public utility for which the tax is levied.

35478. If any city has within its boundaries, at the time of incorporation, at least two-thirds of the assessed value of an assessable property formerly contained within a disincorporated city, it

becomes the owner of all public property formerly belonging to the disincorporated city and such proportion of the debts, liabilities, and credits owned by or due to the disincorporated city as the value of the assessable property of the disincorporated city lying within the boundaries of the new city bears to the value of all assessable property formerly contained within the disincorporated city. The value is that shown by the equalized assessment roll in effect in the fiscal year in which the city was disincorporated.

35479. No tax shall be levied upon any territory not included within the former limits of the disincorporated city for any debt or liability of the disincorporated city.

35480. Upon written request by the legislative body of a newly incorporated city the board of supervisors shall cause the county auditor to prepare, without cost, a statement of the value of the assessable property in the disincorporated city and the value of such property now contained in the incorporated city. If the statement shows that at least two-thirds of the assessed value of all assessable property formerly contained within the disincorporated city is contained within the boundaries of the newly incorporated city, the board of supervisors shall fix the relative proportion by an order entered in the minutes, and the newly incorporated city if liable for that proportion of the debts and liabilities of the disincorporated city.

35481. The board of supervisors shall forward a certified copy of the order to the Secretary of State and the city clerk, and turn over to the city legislative body all public property taken by the board and the proportion of the special fund to which the city is entitled. Thereafter ownership of, and title to, all public property formerly belonging to the disincorporated city is vested in the city as fully as if the property had been originally acquired by it.

35482. Annually, at the time other city taxes are levied and collected, the legislative body shall levy and collect a special tax on the territory of the disincorporated city within the limits of the city sufficient to pay its proportion of the bonded indebtedness as it becomes due.

35483. Annually, at the time other county taxes are levied and collected, the board of supervisors shall levy and collect a special tax on the remainder of the territory sufficient to pay the balance of the debt, and pay this sum to the city treasurer.

35484. With the proceeds of such taxes, the city treasurer shall pay the bonded indebtedness as it becomes due.

35485. If any property within the former limits of the disincorporated city was sold for taxes levied by that city, it may be redeemed or a tax bond issued as if the city had not disincorporated. Such proceedings shall be had and deeds issued in the name of the city in which the land is situated.

Article 6. Consolidation

35490. If the successor city has a freeholder's charter, the successor city shall be governed as a new city under the freeholder's charter

of the successor city. If the successor city is organized under Part 1 (commencing with Section 34400) of this division or its predecessors, the successor city shall be governed in the same manner as a new city. Except as hereinafter provided, the successor city shall be governed in the name of the successor city. If the electors have expressed a preference for the name of the successor city, the successor city shall be deemed to have the name favored by the electors. The predecessor cities are dissolved and disincorporated and if any of them has a freeholder's charter, it is deemed surrendered and annulled and they are merged into the successor city. Immediately upon qualifying, the officers of the successor city who have been elected shall enter upon the duties of their offices and hold office until the next general municipal election and until their successors are elected and qualified. All persons in possession of or occupying the offices in each of the predecessor cities shall surrender them immediately to the proper officers of the successor city.

35491. Upon consolidation, the title to any property owned or held by or in trust for each predecessor city or by its officers or boards in trust for public use shall be vested in the successor city or its officers or boards.

35492. Except as otherwise provided in this part, consolidation does not affect any debts, demands, liabilities, or obligations of any kind existing in favor of or against the cities consolidated at the time of consolidation. Consolidation does not affect any pending action or proceeding involving any such debt, demand, liability, or obligation or any action or proceedings brought by or against any city prior to consolidation. All such proceedings shall be continued and concluded by final judgment or otherwise as if consolidation had not been affected. All such rights or liabilities become the rights and liabilities of the successor city.

35493. Immediately upon consolidation, all ordinances of the predecessor cities shall be deemed repealed. Such repeal shall not discharge any person from any existing civil or criminal liability nor affect any pending prosecution for violation of any such ordinances.

35494. Such repeal shall not apply to:

(a) Ordinances under which vested rights have accrued.

(b) Ordinances relating to proceedings for street or other public improvements.

(c) Ordinances relating to zoning or land use regulation.

(d) Proceedings for opening, extending, widening, straightening or changing the grade of streets or other public places.

These proceedings shall be continued and conducted by the successor city with the same effect as if continued and conducted by the city which commenced them.

35495. Upon consolidation, all ordinances of the successor city shall have full effect throughout the successor city.

35496. Unless otherwise provided in the terms and conditions of the consolidation, the property in cities consolidated pursuant to this article shall not be taxed to pay any indebtedness or liability of any

other city contracted or incurred prior to or existing at the time of consolidation.

35497. The legislative body of the successor city shall separately levy and collect the taxes necessary to pay the indebtedness or liability of each predecessor city within the territory of each such city.

35498. Where the successor city is, or becomes, a chartered city, under a freeholder's charter providing that boroughs may be established in territories or cities annexed to or consolidated with it, this part shall not be construed to prevent a predecessor city, or any part of it, from becoming a borough.

Article 7. Municipal Reorganization

35500. Upon and after the effective date of a municipal reorganization, each change of organization or incorporation ordered for any of the affected cities shall be given the force and effect pertaining to a change of organization of that type or incorporation, as provided in Articles 2 (commencing with Section 35410) to 6 (commencing with Section 35490), inclusive, of this chapter.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because there are savings as well as costs in this act that, in the aggregate, do not result in significant cost changes.

CHAPTER 1254

An act to repeal and add Article 2 (commencing with Section 52340) of Chapter 9 of Part 28 of the Education Code, relating to career guidance centers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1977. Filed with Secretary of State October 1, 1977.]

I am reducing the appropriation contained in Section 2 of Senate Bill No. 986 from $300,000 to $250,000 by deleting the $50,000 contained in subsection (c).

This program has been pioneered in San Diego. Thus, the $50,000 for State generated regulations should not be necessary.

With this reduction, I approve Senate Bill No 986.

EDMUND G. BROWN JR., Governor

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

SECTION 1. Article 2 (commencing with Section 52340) of Chapter 9 of Part 28 of the Education Code is repealed.

SEC. 2. Article 2 (commencing with Section 52340) is added to Chapter 9 of Part 28 of the Education Code, to read:

Article 2. California Regional Career Guidance Centers

52340. The Legislature hereby finds and declares that there exists in this state a serious need to increase the effectiveness of career development programs through the dissemination and implementation of the products, processes, and guidelines established by the California career guidance project initiated at the Office of Superintendent of Schools, Department of Education, San Diego County pursuant to the former provisions contained in Chapter 1209 of the Statutes of 1973. For this purpose, the Legislature intends the continuation of the California career guidance center and the addition of a career guidance center in Los Angeles County. They shall serve as regional guidance resource centers amply equipped with current career measurement and career guidance resources and a professional resource staff. In addition, the California career guidance center at the Office of Superintendent of Schools, San Diego County, shall, subject to approval by the San Diego County Board of Education, serve as a resource to the two additional centers through the dissemination and implementation of the guidelines, products, processes, and staff development programs developed as a result of the pilot activities of that center. The Department of Education, in cooperation and consultation with the advisory committee established pursuant to Section 52343, shall provide state-level guidance and supervision to the three career guidance centers.

52341. Upon recommendation of the Superintendent of Public Instruction, the State Board of Education shall adopt guidelines which shall include, but not be limited to, criteria for fiscal accountability, and procedures relative to interagency contracting and overall center administration and evaluation.

52342. In the implementation of this article, the Department of Education shall, on a regular basis, advise and consult with representatives of the Employment Development Department, the office of the Chancellor of the California Community Colleges, the California Postsecondary Education Commission, the University of California, the Chancellor of the California State University and Colleges, the Commission for Teacher Preparation and Licensing, the Department of Industrial Relations, the Department of Consumer Affairs, the California Advisory Council on Vocational Education and Technical Training, and the State Personnel Board.

52343. Each regional career guidance center shall appoint a local advisory committee composed of 11 members, at least seven of whom shall be representative of business, industry, labor, and the general public.

52344. (a) The local advisory committee shall:

(1) On or before June 30, 1978, and annually thereafter, make formal findings and recommendations regarding the operation and continuation of the career guidance center and report thereon to the Department of Education.

(2) Cooperate and consult with the Department of Education for the purposes provided in Section 52340.

(b) Members of the local advisory committees shall serve without

compensation but they shall receive actual and necessary traveling expenses in performing duties under this section.

52345. The regional career guidance centers have such powers as are necessary to carry out the provisions of this article, in accordance with the guidelines adopted by the State Board of Education including, but not limited to, contractual powers to employ staff and provide products and services pursuant to this article.

52346. (a) The regional career guidance centers shall maintain programs consisting of, but not limited to, the following components:

(1) An inventory of career guidance measurement instruments for use in determining career aptitudes and interests.

(2) An inventory of career guidance resource materials.

(3) In-service training of staff in educational agencies implementing career development activities.

(4) A system for collecting, coordinating, updating, and distributing career information at the local, regional, state, and national levels.

(b) From funds provided pursuant to Section 2 of this act specifically for this subdivision, the California career guidance center staff at the Office of Superintendent of Schools, San Diego County, shall maintain the programs described in subdivision (a) and also shall serve as a resource to the additional regional career guidance center in the utilization and implementation of the guidelines, products, and processes developed during the pilot project phase of their center.

52347. The Department of Education shall evaluate the regional career guidance centers and submit an annual report to the Legislature by January 5 of each year.

SEC. 2. There is hereby appropriated from the General Fund to the State Board of Education, the sum of three hundred thousand dollars ($300,000) to be expended during the 1977–78 fiscal year in the following manner:

(a) Two hundred thousand dollars ($200,000) shall be apportioned to the two regional career guidance centers described in Section 52340 of the Education Code.

(b) An additional fifty thousand dollars ($50,000) shall be awarded to the regional career guidance center at the Office of Superintendent of Schools, San Diego County, for the intercenter activities and products described in subdivision (b) of Section 52346 of the Education Code.

(c) Fifty thousand dollars ($50,000) shall be expended by the Department of Education pursuant to those activities specified in Section 52341 of the Education Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to initiate the two career guidance centers' activities at the start of fiscal year 1977–78, and so facilitate the orderly administration thereof, it is necessary that this act take effect immediately.